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BRITISH-AMERICAN ASSOCIATION,
AND
NOVA-SCOTIA BARONETS.

REPORT
OF THE
ACTION OF DAMAGES FOR ALLEGED LIBEL,
BROUN (*soi-disant*) SIR RICHARD
AGAINST
THE "GLOBE" NEWSPAPER.

WITH
INTRODUCTORY REMARKS RELATIVE TO THE ABOVE SCHEME
AND THE "ILLUSTRIOUS" ORDER CONNECTED WITH IT.



EDINBURGH:
THOMAS G. STEVENSON,
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INTRODUCTORY REMARKS.

THE highly praiseworthy conduct of the Editors of the "Globe" newspaper in exposing and denouncing a very rascally attempt to swindle Her Majesty's subjects, and the resolute bearing of its proprietors in meeting before a jury the gasconading effort of vengeance brought against them by the discomfited promoter of this mischievous scheme, merit the warmest gratitude of all who are capable of discriminating between right and wrong. And this sentiment has induced us to profit by their line of conduct, by preserving in a tangible shape the record of the proceedings referred to; adding to this a few not irrelevant *notanda*, both as connected with the moving principle of the transaction, and the *illustrious* order, so readily adapted for similar outbreaks against common sense and propriety.

The promoter of the "British-American Association for Emigration and Colonization" is an individual styling himself *Sir Richard Broun, Baronet*. When the bubble was started, this person then wrote himself *Knight*.* Both titles being alike baseless assumptions, it may be as well to record the pedigree of this distinguished character, as set forth in the infallible Mr. Burke's "Peerage and Baronetage" (last edition), aided of course by the obliging corrections of the party whose bright dignity it mirrors forth. We omit the "family tradition" of French descent from the era of the Conquest, and commence somewhat nearer to our own time. The account of the family in Mr. Broun's own "Baronetage" is even more diffusively vague.

"Various other notices occur of chiefs of the family in the parliamentary records and meetings of estates, together with names long associated with the history of those times, down to George Broun of Colstoun, who *m.* Margaret, daughter of Sir D. Murray of Stanhope, Bart., by his wife, the Lady Lillias Fleming, dau. of John Earl of Wigtoun, by a dau. of John Earl of Montrose, and

* We give his altisonant title as noted by himself in his "Baronetage of the British Empire" for 1843:—

"Sir Richard Broun, Eques Auratus, Hon. Secretary to the Committee of the Baronetage for Privileges, a Knight Commander of the Sovereign Order of St. John of Jerusalem, and Grand Secretary of the Langue of England." What this Free-masonic trash means we know not: of all such associations of self-styled "Knights," the only gentlemanly and aristocratic one is, we believe, that of the Order of Knights Templars of Scotland, so called; and where this "Grand Secretary of the Langue" dare not venture to show his nose.

had a younger son, George, who *m.* a dau. of Spottiswoode, the Barony of Thornydyke; and

"I. Sir Patrick Broun of Colstoun, who, in consequence of his eminent services, and the fidelity of the ancient family he represented, was created a Knight, and *Baronet of Nova Scotia*, 16th Feb. 1686, with reservation of the title to his heirs-male for ever. Sir Patrick *m.* a dau. of the noble family of Sinclair, and was *s.* by his son,

"II. Sir George Broun, who *m.* the Lady Elizabeth M'Kenzie, dau. of George 1st Earl of Cromarty; and *d.* 1718, without male issue. It is reported of Lady Elizabeth, the first night after her marriage that she slept at Colstoun house, that she dreamed she had eaten the pear, which her father-in-law looked on as a bad omen, and expressed great fears that she would be an instrument in the destruction of the house of Colstoun. Whether owing to the lady's fault, does not appear, but, shortly after, the family split betwixt the heirs-male and the heirs-of-line, the title devolving upon the Thornydyke branch, and the estates upon an heiress, who married George Brown of Eastfield, and from whom are descended the latter family, represented by George Brown Lord Colstoun, of Session (who *m.* a dau. of D. Dalrymple, Lord Westhall); the late Charles Brown of Colstoun, who *m.* a daughter of M'Douall of Logan; and the Countess of Dalhousie.

"III. Sir George Broun, son of Alexander Broun of Thornydyke Castle and Bassendean, by Catherine, dau. of Sir Alexander Swinton of Swinton, *s.* his cousin, and died without male issue, and was *s.* by his brother,

"IV. Sir Alexander, who *m.* Beatrice, dau. of Alexander Swinton, Lord Mersington; and *d.* 1750, leaving

"V. Sir Alexander Broun, who *m.* a dau. of Colquhoun of Glins, and *d.* 1775, without male issue, when the baronetcy devolved upon his cousin,

"VI. The Rev. Sir Richard Broun,* minister of Lochmaben, who declined to take up the title, as he was in holy orders. He *m.* Robina, dau. of Col. Hugh M'Bryde of Beadland, Ayrshire; and *d.* in 1782, leaving two sons,—

"James, who, in 1825, assumed the title, after a special service before a jury of fifteen gentlemen of the co. of Dumfries, of whom the present Marquess of Queensberry was the chancellor. Sir James is the PRESENT BARONET.

"William, of Newmains, who *m.* Nancy, dau. of Colonel Peter Maingy of Guernsey; and *d.* in 1831, leaving three sons,—

"1. William, Government Secretary of Guernsey.

"2. Peter-Nicolas, Colonial Secretary of Swan River.

"3 Richard M'Bryde."

To make this very plausible story immediately perceptible, we reduce it, *more probato*, to a simple *stemma*; by which means we shall the more readily discover how far the learned genealogist is borne out by his own assertions.

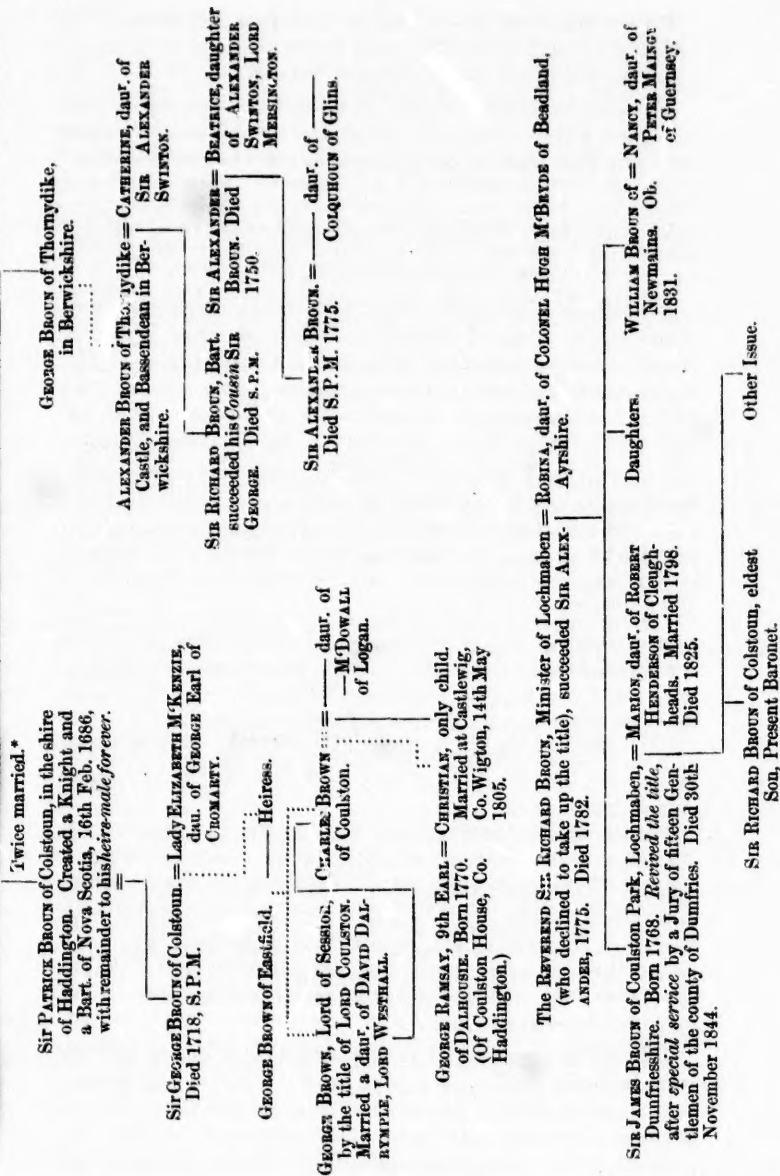
"* The Rev. gentleman was a distinguished member of the Church of Scotland. He had two brothers, Colonel William Broun, Lieut.-governor of Guernsey, and Captain James Broun, R.N., both of whom *d. unm.*"

GEORGE BROWN OF THORNYDYKE,
in Berwickshire.

* Twice married.

SIR PATRICK BROWN OF COLSTOUN, in the shire
of Haddington. Created a Knight and
a Bar. of Nova Scotia, 16th Feb. 1686,
with remainder to his heirs-male for ever.

* Sir Patrick Broun of Colstoun, in the shire
of Haddington. Created a Knight and
a Bar. of Nova Scotia, 16th Feb. 1686,
with remainder to his heirs-male for ever.



By this table it is clearly manifest that in no *direct* way—and certainly not even *indirectly*—does this self-dubbed Baronet connect himself with Sir George Broun of Colstoun.

Moreover, in reference to the said pedigree we may observe that, as regards Lord Coulston, this entry appears in Messrs. Haig and Brunton's "Account of the Senators of the College of Justice," p. 522:—

"George Broun, son of *Sir George Broun* of Colstoun, admitted Advocate 31st January 1734 (Books of Sederunt);—died 6th November 1776 (Scots Magazine, xxxvij. 622.)"

Had this *Sir George Broun* been a Baronet, it would have been stated in the Books of Sederunt. Nisbet, of whose System of Heraldry the first volume was printed in 1722, merely says—"This family was dignified with the title of Baronet in the reign of King *Charles*." Had there been a baronet then alive, Nisbet, in accordance with his usage, would have said so. In like manner Douglas, who in his Peerage invariably marks the distinction between knight and baronet, would, in noticing the marriage of *Sir George Broun* with Lady Elizabeth M'Kenzie, have so designated him. Nisbet was not at all likely to have assigned a dignity to the reign of *Charles*, which was granted in that of *James II.*

The *Charles Broun* of Coalstoun, who is made by the modern Peerage-compiler the *brother* of Lord Coulston, was in fact his son, by Elizabeth, daughter of Hugh Dalrymple of Drummore, third son of the Honourable Sir Hugh Dalrymple of North Berwick, third son of the first Viscount of Stair (the eminent lawyer.) *Vide* Douglas' Peerage, by Wood, II. p. 524.—As this portion of the peerage had the benefit of the revision of Lord Hailes, full reliance may be placed on it.

We should like exceedingly to find any one who could supply the *lacuna* of the descent from Sir George Broun to Lady Dalhousie, supplied in the preceding table by a dotted line); or give us any information showing how Alexander Broun was connected with George of Thornydyke, and how the Rev. *Sir Richard*, who is said to have declined taking up the title, was connected with the Coalstoun race. Can the whole Committee of the Baronets furnish proper evidence of these?

This worthy *knight* of 1843, and *baronet* of 1844, has been for years in the habit of pestering the public with pamphlets relating to the fancied privileges of the Baronets of Great Britain, and was the originator of a Committee of these persons for asserting and protecting their aerial pretensions. The monstrous absurdities set

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forth in these pamphlets were cleverly exposed in the *Athenæum* of 16th and 30th May 1840, in a review of two of them, viz. "Address to the Baronets' Committee, on the Subject of the Chartered Rights and Privileges of the Order, by William Crawford, Esq., Barrister-at-law, Standing Counsel to the Order," 8vo., 1837, and "Dignity, Precedence, &c., of the Honourable the Baronetesses of the Realm," 12mo., 1839. The dreams of this "Standing Counsel" and Mr. Broun being similar, they may justly be considered as *par nobile fratrum*. This review merits to be preserved among these our *Notitia Brunoniana*, and here follows:—

"The public has heard much, and, we believe, are likely to hear more, of the claims of the BARONETS to certain 'rights, privileges, and distinctions;' and, as the subject excites much interest among a class, and will have some novelty for all, and as the tracts above mentioned have been published, we are perhaps justified in considering it a matter fairly within our critical cognizance.

"The ORDER OF BARONETS was created by King James the First, in May, 1611, ostensibly for the defence of Ireland, and especially for the security of the province of Ulster, but really as a means for recruiting the Royal Treasury. The execution of this notable project was originally intrusted to Commissioners, who were authorized to treat with a certain number of such Knights and Esquires as might present themselves with offers of assistance for the service of Ireland. They were to signify to such of them as desired to be admitted into the Dignity of BARONETS, that they must maintain thirty foot-soldiers in Ireland for three years at eight pence a day, and pay the wages for one year upon passing their patents, and give bonds for the payment of the remainder. None but men 'of quality, state of living, and good reputation,' descended from a paternal grandfather who bore arms, and worth £1000 per annum, were to be chosen. Anticipating that the real motive of these creations might be suspected, King James directed that each of the new Baronets should swear that he had 'not given any more for attaining the Degree, or any precedence in it, than that which is necessary for the maintenance of the number of soldiers, or such sort as aforesaid, saving the charges of passing his patent.' After a long preamble, the original Letters Patent create the Dignity of Baronet (*statum, gradum, dignitatem, nomen et titulum, Baronetti*, Anglicè of a Baronet), and confers it upon the grantee and the heirs male of his body for ever, with place and precedence before all Knights, as well Knights of the Bath as Knights Bachelors, and before all Knights Bannerets, except such as might be made under the royal standard in the King's wars in open war, and when the King himself was present; and a corresponding precedence is given to their wives and children. The King covenants that the number of Baronets of England shall never, at any one time, exceed two hundred, and that each of them shall respectively 'enjoy the place and precedence among others, according to the priority of his creation.' King

James then promises, for himself and his heirs and successors, never to create in England any grade, order, name, title, dignity, or state above or equal to that of Baronet, and not to fill up any vacancy in the said number of two hundred that might occur by failure of heirs-male of the bodies of any of the grantees.

"Very soon after the institution of the Order, a dispute arose between the Baronets and the younger sons of Viscounts and Barons about precedency, and the matter being referred to the King in Council, James heard it argued before him for three several days, and, on the 28th of May, 1612, he issued a decree, settling the point in dispute. He adjudged that the younger sons of Viscounts and Barons should take place and precedence before all Baronets; that Bannerets made by the King under the royal standard displayed in an army royal in open war, should, 'for the term of their lives only, and no longer,' precede all other Bannerets, younger sons of Viscounts and Barons, and Baronets, and that the said younger sons and Baronets should precede all Bannerets not created in that manner, except those that might be made by Prince Henry:—

"That the Knights of the Most Noble Order of the Garter, the Privie Councillours of his Majestie, his heires and successours, the Master of the Court of Wardes and Liveries, the Chancellour and under-Treasurer of the Exchequer, Chancellour of the Duchie, the Chiefe Justice of the Court commonly called the King's Bench, the Master of the Rolls, the Chiefe Justice of the Court of Common Pleas, the Chiefe Baron of the Exchequer, and all other the Judges and Barons of the degree of the Coife of the said Courts, now, and for the time being, shall by reason of such their Honourable orders and imployment of State and Justice, have place and precedence in all places, and upon all occasions before the yonger sonnes of Viscounts and Barons, and before all Baronets, any custome, use, ordinance, or other thing to the contrary notwithstanding. But that no other person or persons whatsoever, under the degree of Barons of Parliament, shall take place before the said Baronets, except onely the yonger sonnes of Viscounts and Barons, and others of higher degree, whereof no question ever was, or can be made.'

"The precedence assigned to the wives and children of Baronets, and the promise not to create any rank above or equal to that of Baronet, is repeated. King James then proceeded to grant additional honours and privileges to the Baronets:

"First, his Majestie is pleased to Knight the present Baronets, that are no Knights; and doeth also by these presents of his meere motion and favour, promise and graunt for him, his heires and successours, that such Baronets, and the heires males of their bodies, as hereafter shalbe no Knights, when they shall attaine, or be of the age of one and twentie yeares; upon knowledge thereof given to the Lord Chamberlaine of the household, or Vice-Chamberlaine for the time beeing, or in their absence to any other other officer attending upon his Majesties person, shalbe Knighted by his Majestie, his heires and successours. His Majestie doth also graunt for him, his heires and successours, that the Baronets, and their de-

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ascendants, shall and may beare, either in a Canton in their coate of Armes, or, in an Inseutcheon, at their election, the Armes of Ulster, that is, in a field Argent, a hand Geules, or a bloody hand. And also, that the Baronets, for the time beeing, and the heires males of their bodies shall have place in the Armies of the King's Majestie, his heires and successours, in the grosse, neare about the royall Standard of the King, his heires and successours, for the defence of the same. And lastly, that the Baronets, and the heires males of their bodies shall have two assistants of the bodie, to support the pall, a principall mourner, and foure assistants to him at their funerals, being the meane betwixt a Baron and a Knight.'

"Four years afterwards, namely, in 1616, another and final decree was made, which provided 'that the said Title, Stile, Dignitie, and Degree of Baronet, shall be, and shall be reputed and taken to be a Title, Stile, Dignity, and Degree of Dignity Hereditary, meane in place betwixt the Degree of a Baron and the Degree of a Knight.'

"Provision is made for the precedency of the wives, widows, sons, and daughters of Baronets, and then follows this clause, upon which the present claims are principally founded:—

"And our will and pleasure is, and we doe for us, our heires and successours, hereby further grant and appoint, that if and doubts or questions not heereby, nor by any our recited Letters Patents cleared and determined, doe or shall arise, concerning any place, precedency, priviledge, or other matter touching or concerning the same Baronets, and the heires Males of their bodies, and their wives, their eldest sonnes and their wives, their daughters, their yonger sonnes, and their yonger sonnes' wives, or any of them; such doubts or questions shall be decided and determined, by and according to such usuall rules, custome, and lawes, for place, precedency, priviledge, or other matters concerning them as other Degrees of Dignity Hereditary are ordered and adjudged.'

"The clause in the patent of 1611, about Knighting the heirs male of Baronets being ambiguous, it was fully explained in the final decree.

"So far from their being anything unsettled, or ambiguous, respecting the rights, honours, and privileges, of the Baronets, it is scarcely possible to imagine how they could be more accurately or minutely described. The Committee of Baronets claim, however, besides Knighthood for all Baronets, and for their eldest sons on attaining the age of twenty-one,—the style of '*Honourable*' and 'Supporters to their arms, a Badge, a Dark Green dress, as the appropriate costume pertaining to them as *Equites Aurati*; the Collar of SS—the Belt—the Scarf—a Star—a Pennon—a White Hat, and Plume of White Feathers—the Thumb Ring and Signet—the Sword—Gilt Spurs, &c.' (p. 60.)

"These claims appear to be founded partly upon the clause in the Patent of 1616, that 'if any doubts or questions not hereby, nor by any our recited Letters-Patent, cleared and determined, do or shall arise, such doubts or questions shall be decided and determined by and according to such usual rules, customs, and laws, for place,

precedency, privilege, or other matters concerning them, as other degrees of dignity hereditary, are ordered and adjudged;’ partly upon a presumed analogy to other dignities; and partly upon supposed usage.

“The operative words in the Patent of a Baron’ are, Mr. Crawford says, ‘almost a counterpart of a Patent of a Baron, viz., ‘*Præficimus, constituimus et creamus eidemque A. B. statum, gradum, dignitatem, stylum, nomen, et honorem BARONIS B. de C.*,’ in the one case, and ‘in *dignitatem, statum et gradum BARONETTI*’—‘*nomen, statum, gradum, stylum, dignitatem, titulum, locum et præcedentiam prædictam, &c.*’ in the other, and he adds that—

“It is no violent presumption to conclude, that the words state, grade, dignity, title, and name, which conferred upon a Baron certain well-known privileges, were not lightly or thoughtlessly used in the Patents of Baronets by the Founder of that Order. The use of such words in both instruments, drives the opponents of the Baronets’ claims into a dilemma, for either those words mean nothing at all, thus stultifying the Royal Founder’s express intentions and solemn deliberate act, or they must have attributed to them that meaning alone, which they were known to bear when theretofore used in conferring ‘other hereditary degrees of dignity.’ In no other light can I regard them, for it would be most fallacious to argue that the same identical words can, in conferring hereditary privileges, have different interpretations. We then naturally enquire, what is the operation and what the effect of the words so used with reference to the dignity of Baron? In other words, what ‘state, degree, dignity, style, title, name, honour, place, and privilege,’ are conferred upon, and enjoyed by a Baron, by force and virtue of a Patent so nearly identical in its terms with that of a Baronet?”

“Mr. Crawford therefore infers that the distinctions incidental to the dignity of a *Baron* are also incidental to that of a *Baronet*, viz., ‘honorary epithets, secondary titles, personal decorations, and augmented heraldic bearings.’ In the whole range of controversial writings it would perhaps be impossible to discover a theory more destitute of foundation, or a more perfect instance of a *non sequitur* than this. By the one grant the party obtains the ‘state, grade, dignity, style, title, name, and honour of a *BARON*,’ with all its rights and privileges; and as those rights and privileges are not expressly defined, they are ascertained and fixed by ancient usage, and long-established custom. In the other case, the party obtains the ‘state, grade, dignity, style, title, and name of a *BARONET*,’ many of the rights and privileges incidental to which, are not only described in the instrument itself, but part of them are expressly referred to, and all the additional ones are clearly defined and settled by the subsequent patents of 1612 and 1616. How then can it be contended that a patent which grants any particular dignity, with all the rights and privileges appertaining to such dignity, can confer any part of the rights and privileges belonging to *another* and *totally distinct dignity*? Besides the privileges mentioned by

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Mr. Crawford, and the right of sitting in Parliament, Barons enjoy various other privileges and immunities—freedom from arrest, and from attending court-leets, or the *posse comitatus*, in cases of riot, for example—and does he mean to say that these were included in the patent to Baronets as part of *their* state, grade, or dignity? But if his arguments be correct, and any privilege belonging to Barons were given to Baronets by those words, *all* must be given, —a *reductio ad absurdum*, that shows the mistake into which he has fallen.

"We now proceed to notice the other claims *seriatim*:—First, KNIGHTHOOD.—Many of the newly-created Baronets being Knights, and, perhaps, with the view of consolidating or uniting, as it were, the new dignity with an ancient institution, King James engaged to Knight all Baronets, and their eldest sons on becoming of age; consequently there can be no dispute as to the right of those Baronets and their eldest sons, to Knighthood, in all cases in which a clause to that effect occurs in their patents of creation. We believe there are few, if any, patents of English Baronets in which it is omitted, before the 19th of December 1827, when Letters Patent were issued, revoking the covenant in the patents of King James; and it has been omitted in all subsequent creations of Baronets.

"When a Baronet is Knighted, he of course becomes entitled to all the privileges and distinctions of a Knight Bachelor, as well as of a Baronet: and the claim to vestments and decorations is principally founded upon such ornaments having been once worn by Knights. Mr. Crawford observes (and, as it is almost the only indication of common sense we have discovered throughout the Baronets' proceedings, it is particularly deserving of attention)—'But supposing the right to such dress and decorations to be undoubted, it will be for the body at large to consider how far their adoption would suit the spirit of the age, and whether the splendid trappings of the days of Chivalry are adapted to those matter-of-fact times in which we live. On such points as these, I can offer no remark. My duty is to point out, to the best of my ability, what the Baronets may claim if they shall be so disposed.'

"Certainly it would rather astonish her Majesty's lieges to see 900 gentlemen walking about London with gold collars of S S, scarfs, belts (or military girdles), swords, gilded spurs, gold chains, and with large gold rings on their thumbs, and white hats and plumes on their heads!

"Though the right of such Baronets as enjoy their titles under patents containing the covenant to confer knighthood upon them and upon their sons and heirs-apparent, is not likely to be disputed, the Crown, when called upon to confer that dignity, has not merely the power, but it is bound to ascertain that the claimants are *de jure* entitled to its favour. In other words, their pedigree ought first to be proved by legal evidence, before a Court created for that purpose. The necessity for such a measure has long been felt, because many persons have assumed the title, either without any proofs of their descent whatever, or, what is nearly the same thing,

upon the faith of that most contemptible of all legal evidence, a modern Scotch Retour! Clamorous as the Baronets have shown themselves for imaginary rights and supposed privileges formerly resisted, they now take but slight notice of the most serious defect in their constitution, the one most calculated to impair their dignity, and to bring their order into disrepute, namely, the want of a competent tribunal before which the right of every Baronet should be established. We may be told that such is to be one of the duties of the Chapters they are desirous of holding; but on such a Court (judging from the proceedings that have already emanated from the body, and of the elements of which it would probably be composed), we fear no reliance could be placed; and if anything of the kind were done, it must be formed by and depend entirely upon the government. Some of, if not all, the Judges of such a Court might however be Baronets, because it would be easy to find competent lawyers among the body, or they might be created for the purpose.

"The claim to SUPPORTERS is thus stated:—

"It is necessary under this head to show that Baronets are of the Order of *Nobiles Majores*. Now the *Nobiles Majores* are distinguished from the *Nobiles Minores* by hereditary descent of title. I have shown by the Charters that Baronets enjoy an hereditary dignity, therefore if Supporters be distinctive of, and appropriate to those grades of hereditary rank theretofore existing in the State, namely, the Peers; and that Baronets are to be adjudged 'in all things relating to privilege and other matters by the same rules, laws, and customs, by which other degrees of dignity hereditary are ordered and adjudged,' then it follows that Supporters legitimately appertain to the Order of Baronets. This was the conclusion of Lord Lyon King of Arms, when he assigned Supporters to the Nova Scotia Baronets, a junior branch of the Order.

"In this assumption about *Nobiles Majores*, Playfair (perhaps the most worthless of all authorities) is cited; and we are then told that—

"Anstis, in his treatise called *Aspilogia*, says, 'The practice of the Sovereigns of England granting Supporters to the Peers of each degree seems to have occurred in the reign of King Henry VIII., as did that of granting the like ornaments to the Arms of the Knights of the Garter, and of the Bath.' The right of these three privileged classes to bear Supporters was established prior to the accession of James I. to the British Monarchy; they were enjoyed by them respectively at the period when he founded the Order of Baronet or Minor Baron, and they continue in use to the present day. When therefore the Baronetage was erected, it is, I think, a fair presumption, that it was unnecessary to specify in the Royal Decree, that the Members of it should bear Supporters, that privilege having been incidentally conferred by the Charters granting to the Baronets that they should be adjudged in all things relating to title, dignity, privilege and other matters, as other degrees of Hereditary Dignity then and theretofore were ordered and ad-

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judged: Its fairness may be drawn from the precedency of the Baronets above the Knights of the Bath; those Knights having Supporters, it is not unreasonable to argue that the superior Order should have them likewise.'

"It may be as well to inform Mr. Crawford that the treatise called *Aspilogia* is supposed to have been written by the learned Spelman, and was printed at the end of Upton, '*De Studio Militari*,' in 1654, fifteen years before Anstis was born.

"In the time of James I. Supporters were confined to Peers and Knights of the Garter; and they were not borne by Knights of the Bath until the creation of that Order as a regular Military Order of Knighthood by George I. in 1725, for which purpose a special statute was issued. The propriety of assigning some armorial distinction to the Baronets did not escape their royal founder; and, by the Decree of 1612, which settled so many other points connected with their position and privileges, the King granted that 'the Baronets and their descendants shall and may bear, either in a canton in their coat of arms, or in an inescutcheon, at their election, the arms of Ulster—that is, in a field argent a hand gules, or a bloody hand.' Not a word occurs about Supporters; and as the use of those heraldic ornaments was then as well known, and governed by as strict rules as at present, no one can believe that if it had been intended that Baronets should bear them, words to that effect would not have been introduced into the Decree. The '*fair presumption*' that it was unnecessary to specify them, because it was a privilege 'that the members of it should bear Supporters, that privilege having been incidentally conferred by the Charters granting to the Baronets that they should be adjudged in all things relating to title, dignity, privilege, and other matters, as other degrees of Hereditary Dignity then and theretofore were ordered and adjudged,' is scarcely deserving of notice; for it is obvious, from the context, that this analogy is only to apply in cases of '*doubts or questions, not cleared and determined*' by that Decree, or the former patents '*concerning place, precedency, privilege, or other matters touching the Baronets, their heirs-male apparent, their wives, their eldest sons and their wives, their daughters, their younger sons and their wives, or any of them.*' In that clause, 'privilege, or other matters,' are the only words that can, by any possible construction, include 'Supporters;' but the whole sentence shows that no other matters than those connected with *place and precedency* were contemplated, because the children and the wives of the sons of Baronets are placed in the same category as the Baronets themselves. Moreover (we must repeat), it is only when '*doubts or questions not hereby, nor by any our recited letters-patent cleared and determined*' arise, that a reference to the usage respecting 'other hereditary dignities is to be made. But what doubt has ever arisen, or can properly or fairly arise, respecting the armorial bearings of Baronets, when that very Decree itself clearly and specially points out what their armorial distinctions shall be? On the next assertion, that the '*fairness of the claim*' may be drawn

from the precedence of the Baronets above the Knights of the Bath; those Knights having Supporters, it is not unreasonable to argue that the superior Order should have them likewise: it is sufficient to remark, that, at the institution of Baronets, Knights of the Bath did not bear Supporters; that when they were assigned to them in 1725, the constitution of the Order had been entirely altered; that the Knights then consisted of only thirty-seven persons, and even now scarcely exceed one hundred, many of whom are Peers; that the Order of the Bath is one of the few rewards the Crown has to bestow for distinguished service to the State, whereas the first Baronets actually *bought* their dignity. There are now *nine hundred* Baronets, and they are constantly increasing; so that, to extend the distinction, as an *hereditary* right, to so large a body, would inevitably destroy its value. Great stress is laid on the fact that Supporters are borne by the Baronets of Nova Scotia—or, more properly speaking, by the Baronets of Scotland. In that Kingdom, however, Supporters were never confined to the peerage, but have been, and still are, used by the Chiefs of Clans; and Lord Lyon is empowered to grant them at his discretion, whereas no such power is vested either in Garter, or in Ulster King of Arms of Ireland, nor even in the Earl Marshal, except in the cases of Peers, Knights of the Garter, and Knights Grand Cross of the Royal Orders of Knighthood. Whether the Lord Lyon, who granted Supporters to the Baronets of Nova Scotia, was justified in doing so, has but slight bearing on the present occasion. The words of the patents of Nova Scotia Baronets, their number, and the usage in Scotland, are altogether different from those of England; so that his decision, supposing it (which is by no means conceded) to have been a proper one, cannot be deemed a precedent for admitting the pretensions of the Baronets of England and Ireland to the same distinction.

"The next claim is so preposterous a one, that Mr. Crawford must himself describe it. After stating that the present Coronets were not assigned to the Barons of England until 1661, and to those of Ireland and Scotland in 1665, he says:—

"It will be obvious, therefore, that the Order of Baronets could not claim a Coronet as incidental to the dignity at the period of its erection; but as a Coronet has since been granted to Barons, to prevent the anomaly of Baronets being the only degree of hereditary dignity in this realm without a Coronet; and the Knight's helmet which they now bear being manifestly inappropriate, as belonging to their inferior personal degree, good grounds are open to the Baronets whereupon to prefer a petition praying Her Majesty to accord to them some distinctive head decoration."

"If the perusal of this passage should disturb the gravity of our readers, and if a certain triangular-shaped ornament, adorned with a number of little tintinnabulary appurtenances, should present itself to their imagination, we would remind them that such an article would be inappropriate to the present purpose, because a 'head decoration' of that kind was not the mark of an 'hereditary

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dignity,' but of personal and very amusing qualities. Coronets are not worn by Barons, nor by any other noblemen, on account of their '*hereditary dignity*,' but as part of their parliamentary costume as *Peers*; and though King Charles II. first assigned Coronets to Barons, those personages had long worn a Cap of Estate in Parliament, to which that monarch merely added eight pearls or balls. But no such Cap, or other 'head decoration' was given to Baronets by James I.; and the cause to which Mr. Crawford wishes the omission to be attributed is manifestly erroneous.

"The style of '*THE HONOURABLE*.'—Because the honorary epithets of 'Most Noble,' 'Most Honourable,' 'Right Honourable,' and 'Honourable,' attributed to Dukes, Marquesses, Earls, Barons, and their children, 'originated entirely in the courtesy of society, and were not bestowed by the Crown, and are not perpetuated by Charter,' Mr. Crawford says, 'use and wont form the only grounds by which any of the several grades of the Peerage can claim those honorary appellations;' and he adds,—'and to show by precedent that the Baronetage is entitled to enjoy, and has enjoyed a similar right, is all, as I confidently submit, that is necessary to authorise its resumption.'

Numerous instances are then given of the word 'Honourable' having been prefixed to the names of Baronets in the early part and middle of the seventeenth century. But while we admit the fact, it proves nothing in favour of the Baronets which it does not establish in favour of Esquires, private Gentlemen of large landed property, Generals, Colonels, Admirals, and Justices of the Peace, to *all of whom* the appellation of 'Honourable' was then as frequently applied as to Baronets. Functionaries in the Colonies are to this day called 'The Honourable;' and in England we have 'His Honour' the Vice-Chancellor, and 'His Honour' the Master of the Rolls. Custom may be the only real foundation of the right of Peers to the titles of 'Most Noble,' and 'Most' or 'Right Honourable,' as well as of their children to that of 'Honourable;' but the custom has in their case been adopted by the Crown, so as to possess as much authority, and those appellations are certainly as fully justified as any title or appellation can be that is not expressly conferred by Letters-Patent, or by any Act of Parliament. But did the Crown ever recognise the pretensions of the Baronets to the designation of 'Honourable'? Have they ever even ascribed it to themselves?—or has it been attributed to them by the courtesy and usage of society, *since* it ceased to be a mere act of politeness to apply it to every gentleman distinguished by his reputation, by the extent of his property, or by the office he happened to hold? The sixteen pages of the address, containing proofs of a fact which no one ever denied, are therefore utterly wasted: but a still higher style seems to be claimed for Baronets. Mr. Crawford says—

"From official documents it appears, that in the reign of James I. and Charles I., Lords of Parliament in Scotland were styled by the Crown 'Our Right Trustie and wel-beloved Cousin and Counsellour,' and that Baronets were styled 'Our trustie and well-

beloved Cousin and Counsellour,'—thus preserving the relation, in the descending scale, between Right Honourable and Honourable. This style occurs in a Royal Warrant of King Charles I., dated Whitehall, April 1631, addressed to the Justices of Ireland, in which mention is made of 'Our trustie and wel-beloved Cousin and Counsellour, Sir Walter Crosbie, Knight and Baronet.'

"The address to Sir Walter Crosbie explains itself. He was not so styled because he was a *Baronet*, but because he was a *Privy Councillor*. What then could be the object of alluding to Sir Walter Crosbie's title, unless it were wished to raise an inference wholly without foundation? But no species of proof seems too ridiculous to be brought forward:—in 1617, the Letters-Patent creating the dignity, as well as the two subsequent patents, were printed by the King's printer, entitled 'Three Patents concerning the *Honourable degree and dignity of Baronets*,' upon which Mr. Crawford seriously remarks:—

"Now, in thus establishing that the Baronets upon the erection of the Order, and long afterwards, were styled 'the Honourable' by so many various grades of society, I must remind the Committee that it rests solely with themselves, whether they will revive a style, which has fallen into disuse. If they believe the evidence adduced to be conclusive, that Baronets formerly enjoyed the style, they will, in my opinion, be fully warranted in resuming it. The usage of society originated it, and it may be perpetuated by the same means."

"Let the reader mark well this beautiful specimen of evidence. The degree and dignity of Baronet is 'an honourable degree; *ergo*, every one entitled to that dignity may style himself 'the Honourable.' Mr. Crawford forgets that the Order of the Garter is styled the "*Most Noble Order*," and there the Bath is styled, not in a printer's title-page, but in letters-patent under the Great Seal, 'the *Most Honourable Order*;' but neither the Knights of the Garter nor of the Bath ever pretended to call themselves 'the Most Noble,' 'the Most Honourable,' nor even 'the Honourable.' The Society of the Middle Temple or Lincoln's Inn is 'an Honourable Society,' and, according to this reasoning, all its members may call themselves 'the Honourable.' Why then did not Mr. Crawford, who must be a member of one of the '*Honourable*' Societies of the Inns of Court, style himself in his title-page, 'the *Honourable* William Crawford, M.A., Barrister-at-Law, Standing Counsel to the Order?'

"A few more words of comment suggest themselves, which, however, we shall defer for the present."

[SECOND NOTICE.]

"THE claim to 'Vestments and other Decorations of Estate,' rests partly upon the clause so repeatedly cited that in cases of doubt the Baronets 'shall be ordered and adjudged in all matters as the other degrees of Dignity hereditary are ordered and adjudged;' partly, 'upon the usual rules, custom, and laws, for place, precedence, and privilege;' and particularly upon the assumption

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'that all the various degrees of Dignity personal have had assigned to them Vestments of Estate.'

"Robes of Office are certainly worn by the Judges, Chancellor of the Exchequer, Dignitaries of the University, Mayors, Aldermen, &c.; but the only persons entitled to 'Vestments of Estate' in England are Peers, and the Knights and Officers of the Orders of Knighthood. There is not, however, any analogy whatever between those cases and that of Baronets. The Robes of Peers are, in fact, their Parliamentary Habit, and are worn on no other occasions than in Parliament and at Coronations. The Robes or Mantles of Knights of Orders are only worn in Capitular, or other Conventions of the Knights, which Conventions are ordained by their constitution. But no Robes were assigned to Baronets, probably because it was never intended (so far at least as appears from the letters-patent), that they should meet as a Capitular body, or (as must be inferred from their never having been summoned) attend a Coronation, Royal Funeral, or other solemn ceremonial. 'Vestments of Estate' would be useless if there were no occasions on which they could properly be worn; and it is obvious that two of the other points contended for—namely, the right of holding Chapters, and of attending Coronations, &c., must first be conceded, before the desired Vestments could be of the slightest service. Indeed, the simple fact that neither Vestments nor personal Decorations were assigned to Baronets by the Founder, is almost conclusive, that he did not intend that the Institution should bear any resemblance to Military Orders of Knighthood; and the promise to Knight Baronets, if they wished it, is another proof of the distinct nature of the new and the old Dignity.

"Upon the claim to hold CHAPTERS, it is only necessary to observe, that the Baronets are not by their constitution a Capitular body, and that as all their legitimate rights and privileges are clearly and amply defined, in the letters-patent of 1611, 1612, and 1616, no necessity for holding Chapters exists. Between Baronets and Knights of Orders there is no resemblance on that subject, because the principal reason of Knights assembling in a Chapter is for the purpose of perpetuating their body by Election to vacancies, whereas no Baronet was ever *elected* by his brethren; nor can a Baronet, like a Knight of the Garter or Bath, be deprived of his dignity, even by a unanimous vote of the whole body.

"Mr. Crawford says,—

"Among other reasons why a necessity exists for a Chapter, I shall adduce the following:—Although the Order was erected in 1611, and, as the Heralds say, the privileges and other matters concerning Baronets were fully defined and ascertained, yet in 1783 it was found necessary to pass a Regulation, under the Royal Signet, for the correction of divers abuses which had crept into the Baronetage, and for preventing persons assuming the title of Baronet without legal authority. This Regulation occasioned a General Meeting of the Order on 31st May 1784, when a Petition to his Majesty George III. was drawn up, embodying the opinion of that

Meeting, that it would subject those, who were really entitled to that honour and dignity, to numberless inconveniences and expenses, without being an effectual means of preventing abuses. This Regulation is registered in the Herald's College, whence Mr. Broun extracted it. The grievance has not been remedied to the present day, for it is notorious that persons have assumed the title, without a particle of evidence to support the assumption; and there are instances of persons of the same name, styling themselves Baronets by virtue of one and the same Patent, granted to their real or pretended ancestor. Besides, there are persons created by the Claimant to the Earldom of Stirling, who affects to have a Charter from the Crown, enabling him to grant the dignity of Baronet of Nova Scotia.

"Again, although the original Charters covenanted with the Baronets and their heirs-male, that no new grade should have place or precedency, or intervene between the Barons and Baronets; yet we find an infringement upon that solemn compact in the reign of George III. by the erection of the Order of the Knights of St. Patrick in 1783, by the warrant creating which Order it is declared, that 'it is farther our will and pleasure, that the said Knights, being Commoners, shall have rank and precedency in all places immediately after Barons' eldest Sons.' Now it is immaterial for my argument that Commoners never have been made Knights of St. Patrick;—the power to create Commoners exists, and it is competent for any Minister to advise Her Majesty to elevate a Commoner to that high honour, at any time. Where, then, is the Chapter to expostulate against such an invasion of your Chartered rights, and to oppose it by all loyal and constitutional means?

"Again, his late Majesty George IV., by letters-patent bearing date the 19th December 1827, revoked the clause in the original Decree of King James I., which declared and promised for that King, his heirs and successors, that the Baronets and their eldest sons, or heirs-male apparent, should be Knighted on their coming of age, after having complied with the mode of application therein prescribed. Here again the Chapter might interpose, and assert their rights under Royal Charter, and it might fairly be argued, that, if the precedent were allowed, and that George IV. had a right to curtail the Order of any of its Chartered privileges—it would be equally competent for him, or any of his successors, to abrogate and abolish the whole.'

"In the first of these cases it seems the Baronets *did meet*, and came to a resolution which certainly betrayed great indifference about their true Dignity, for they objected to a measure proposed by the Crown for preventing impostors from assuming the title. If they had been authorised to hold Chapters, all they could have done would have been to meet and remonstrate:—meet and remonstrate however they did—but with what respect for their Order or credit to themselves, it is not necessary to inquire. In the second case it was surely as competent for the Baronets to have met without a Chapter, and to have remonstrated against the creation of

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the Order of St. Patrick, as it was for them to meet in the following year, when they remonstrated, and effectually too, against the intended investigation of the pedigrees of all persons calling themselves Baronets. It seems difficult to avoid the conclusion that upon a mere point of honour, though they supposed that it involved an essential part of their rights and privileges, the Baronets were silent and supine—but that the moment a measure calculated to maintain effectually the reputation of the Order was proposed, but which would necessarily cause each of them, for once only in their several lives, a little trouble and some expense, they vigorously resisted it! With respect to the third and last instance, Mr. Crawford may be assured that no proceedings on the part of the Baronets, not even if they had met in solemn Chapter, wearing ‘thumb rings, spurs, and plumes,’ or their ‘appropriate head decoration’ to boot, would have prevented the omission in all future patents of the improvident and inconvenient covenant to Knight the heirs-apparent of Baronets.

“While alluding to the Order of St. Patrick, it is proper to observe that it is very doubtful whether the institution of that Order was a violation of the promise alluded to, inasmuch as it was created in *Ireland* before the Union; and the covenant in the Patent of 1611 referred only to ‘*this our kingdom of England*.’

“The claim to ATTEND CORONATIONS AND ROYAL FUNERALS, &c. is easily answered. Except the Knights of the Bath, who were usually created at Coronations, all the persons who attend that ceremony are *functionaries*,—namely, Peers, the Great Officers of State, Officers of the Household, Judges, &c., and they all attend upon the Sovereign in the character of functionaries. Neither Knights Bachelors, nor Knights of the Thistle, St. Patrick, St. Michael, or St. George, are summoned to Coronations, Royal Funerals, or other great Ceremonials, though of each of those bodies the Sovereign is himself a constituent member. Why then should BARONETS, who are not *functionaries*, and to whose institution the Sovereign does not even belong, require from him a mark of consideration which he withholds from his own Knights? The ‘hereditary dignity’ of Baronets affords them no pretensions to be present, because even Peers do not attend on account of their dignities being *hereditary*, but because they are Counsellors of the Crown and Peers of the Realm, who have public duties of the highest and most important nature to perform.

“The claim to a BADGE seems mainly founded on the circumstance that a Badge is worn by the Baronets of Nova Scotia. King Charles the First created that body in 1625, ‘for advancing the plantation of Nova Scotia in America, and settling a colony there.’ By their patents a tract of land was assigned to each of them. Their rights and privileges are very similar to the Baronets of England; but instead of bearing the ‘Arms of Ulster’ in their Arms, the heraldic distinction assigned them consisted of the Arms of Nova Scotia, which they might bear either in a canton or inescutcheon, at their pleasure. On the 17th of November 1629, the

King, in a Royal Warrant to the Privy Council of Scotland, after reciting that for the better advancement of the Plantation of New Scotland, his late father intended to institute, and that he himself had since 'created the order and title of Baronet in our ancient Kingdom,' and 'seeing that Sir William Alexander, Lieutenant of New Scotland, hath now a colony where his son Sir William is now resident,' thus proceeded—'We being most willing to afford all the possible means of encouragement that conveniently we can to the Baronets of that our ancient Kingdom, for the furtherance of so good a work; and to the effect they may be honoured and have place in all respects according to their patents from us, we have been pleased to authorise and allow, as by these presents, for us and our successors, we authorise and allow the said Lieutenant and Baronets, and every one of them, and their heirs-male, to wear and carry about their necks, in all times coming, an orange tawny silk Ribbon, whereon shall hang pendant, in an Inescutcheon argent, a saltire azure, thereon an inescutcheon of the arms of Scotland, with an Imperial Crown above the scutcheon, and encircled with this motto: *Fax Mentis Honestæ Gloria*; which Cognizance our said present Lieutenant shall deliver now to them from us, that they may be the better known and distinguished from other persons.'

"Power was then given to the Privy Council of Scotland to punish persons who improperly took precedence of these Baronets, their wives or children, or who presumed to wear their Cognizance, by fine and imprisonment, 'that others may be terrified from attempting the like.'

"Under that warrant, all Baronets of Nova Scotia, created before November 1629, and their heirs-male, are undoubtedly authorised to wear the Badge therein described; but the right of those subsequently made is extremely doubtful. Nothing occurs in that document respecting any other Baronets than those already created. On the contrary, the privilege seems, from every word of the instrument, to be confined to the existing persons and their successors in the Dignity. Unless, then, the patents of all the Baronets of Nova Scotia, created since 1629, contain an express grant of the Badge, they cannot be entitled to it. It appears from the following statement in the *Gentleman's Magazine* for 1775, that the use of the Badge had long been discontinued:—'November 20.—Several Scotch Baronets appeared at Court in the ensigns of an Order which has lain dormant near 150 years. It was originally called a Nova Scotia Order, and has been lately revived.' This proceeding did not, however, pass unnoticed. The Earl of Suffolk, then Earl Marshal, immediately 'required that the claim of the Baronets to the distinction of wearing the Riband and Jewel of their Order, should be referred to his Majesty's Attorney and Solicitor-Generals for England, and the Lord Advocate and Solicitor-General for Scotland.' The answer of the Baronets to the inquiry for their authority to wear the Badge, contained no sort of justification; and then left the question of *legal right* untouched. They merely said—'The privilege is extremely dear to us. Our lives

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and fortunes we would, without fear, trust in the hands of the four gentlemen pointed out by your Lordship, but we cannot submit our family honours to any body. We will be so frank as to own to your Lordship, that we should not wish to have honours which depend upon any voice except that of our Sovereign or the Laws. Under these circumstances, so far from the Badge of the Nova Scotia Baronets forming a *precedent* for assigning a Badge to all the Baronets of England and Ireland, the legal right to that Badge appears to be confined to less than half of the whole number of Scottish Baronets; and it was not generally worn by them until about a century and a half after the institution of that Order.

"There is a great distinction between the Badge of an Order of Knighthood and the Badge of an hereditary Dignity; and while the former may be a legitimate object of ambition, a desire for the latter originates in mere personal vanity. An Order of Knighthood is presumed to be, and often is, the reward of services to the Country, and its ensigns are the outward and visible proofs of the Royal favour and of the merit of the individual. But a Badge of *hereditary* rank would merely indicate that the wearer had inherited a certain degree and station,—in other words, that he was a BARONET. The case is, we admit, slightly different in the instances of persons who have themselves been created Baronets; but as the claim is made upon the ground that the Dignity is *hereditary*, it must be treated accordingly. We must repeat, that it is not the fact, that all *other hereditary* Degrees are distinguished even at Court, much less in general society, by Badges or dress; and if Baronets are to bear marks of their rank, *à fortiori* ought the higher hereditary order of Peers. Except at Coronations or in Parliament, even a Duke bears no sign of his elevated station; and no one can distinguish a Peer at a Levee (unless he happens to be a Knight of the Garter, Thistle, or St. Patrick), from the humblest commoner. Supposing, however, the Baronets were to succeed in their wish, and to be labelled like decanters, what possible pretence had they to a *Star*? That ornament is a Knightly ensign, radiated with silver; but of what Order, in the proper sense of the word, would a Baronet's *Star* be the ensign? Baronets are not Knights, though, like all others of the Queen's male subjects, they may be Knighted, and as Knights of Orders, many of them wear Stars and Badges. But why should Baronets wear a Badge, much more a *Star*, when Peers (except in Parliament and at Coronations) are undistinguished, and have never sought either the one or the other? On the ground of 'hereditary dignity,' the Baronets have no pretensions that are not possessed in a greater degree by Peers; and they cannot claim such decorations from any analogy to Orders of Knighthood, for the simple reason that the constitution of their Order is radically and totally different from that of every British Order of Knighthood.

"This is not the first time the Baronets have put forth claims of this kind, but their pretensions were never before so extravagant. As early as 1627, a petition was referred for the opinion of the

Heralds, and a report was signed by two of the Kings of Arms and four Heralds. After adverting to the Robes of the Nobility, and to the Insignia of the Garter and Bath, the Heralds stated their opinion in these words:—

“The consideration whereof moveth us to be of opinion that if there were respective ornaments worn for the distinction of the degree of Baronet, and Order of Knights Bachelors, it would no way be unfit or inconvenient either to his Majesty or his Subjects. But whether his Majesty's pleasure in this behalf should be declared by proclamation, and what the marks of difference in these cases should be, we must (as in duty bound) humbly leave the same to the consideration of his Majesty.’

“Nothing, however, appears to have been done.

“To this report Mr. Crawford particularly alludes, but he is entirely silent respecting a similar request in 1783, which after being fully considered, was *refused*. A few years ago, the subject was again agitated by, we believe, Mr. Broun, the eldest son of Sir James Broun, a Baronet of Nova Scotia, and the author of the other tract, which we are about to notice. Under that gentleman's auspices, aided by the exertions of Mr. Crawford, who was made ‘Standing Counsel to the Order,’ repeated meetings of Baronets have been held; and though many of the most ancient members of that body have wisely held themselves aloof, while others, still more wisely, have publicly deprecated the whole affair, 400 Baronets are said to be parties to, or at least approvers of the proceedings. Their first measure was to petition his late Majesty, who seems to have been disposed to assign them a Badge; but the petition being referred to the Secretary of State, he desired the Heralds to make a report on the subject. That document, judging from the extract cited by Mr. Crawford, appears to have been drawn up with equal ability and impartiality. In one point only do we differ from the report. The Heralds say ‘The style of the ‘Honourable’ is given to the Judges and to the Barons of the Exchequer with others, because by the decree of the 10th of King James I., for settling the place and precedence of the Baronets, the Judges and Barons of the Exchequer, as well as others therein mentioned, were declared to have place and precedence before the younger Sons of Viscounts and Barons.’ We would submit, however, that the Judges derived the style of ‘Honourable’ from the importance and dignity of their Office, without any reference to their place in the table of precedence; and it must be remembered, that Knights of the Garter and Knights Bannerets precede the younger sons of Viscounts and Barons, though they are not called ‘Honourable.’

“The rank of Baronet, having existed for upwards of two centuries, is undoubtedly entitled to respect and consideration; and from its comparative antiquity, and the services of many of those upon whom it has been conferred, the unchivalrous and mercenary character of its origin is almost forgotten. Its royal Founder took extraordinary pains to fix the position of its members, and to define and explain all the rights, privileges, and distinctions, with which

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he thought fit to endow them; and no rational person can deny that these advantages are ample for every purpose. We would therefore suggest to the Baronets, that they are impairing the real dignity of their institution when they crave for trifles wholly incompatible with the nature of their Order, and which, in the opinion of the world at large, are unworthy of any man's ambition. Many of the proceedings of the Committee are calculated to excite ridicule; and we would ask any Baronet, endowed with the slightest degree of common sense, what his countrymen must think of four hundred educated English gentlemen, in the nineteenth century, meeting in solemn conclave, entering into serious debate, petitioning the Crown, and publishing in newspapers and pamphlets, that they earnestly desire to be called 'Honourable,' to wear gold Spurs, Sashes, Thumb-Rings, Scarfs, white Plumes, Badges, Stars, Green vests, and 'Head Decorations.'

"Our respect for the Baronets induces us to urge upon their attention two objects, which would do more to raise their Order, in public estimation, than anything yet proposed,—one of which entirely rests with themselves, and the other would probably meet with the approbation and assistance of the Government. First, let the Baronets form a permanent fund for the relief of the decayed members of their Order, and their families. Secondly, let them request that a tribunal shall be established, before which every Baronet must prove his right to his title, in the same way as Peers prove their succession. If this were done, the Crown would be aware that the Baronets really felt interested in the credit of their Order; and it might, on its part, assist in so laudable an effort, by conferring the Honour in future, only upon persons of sufficient fortune to support an *hereditary* Dignity. But the Baronets may rest assured that this absurd craving for personal ornaments only tends to cast ridicule upon their institution, as well as upon all who have taken part in the recent proceedings. Whose gravity can resist the pathetic peroration of their learned Counsel?—

"Finally, while you solicit from our young and beloved Queen the completion of her Royal Uncle's beneficent intentions towards the Order, you will remember that the object of your erection was expressed to be, that you might be 'mean betwixt the Barons and the Knights.' That you consequently form the link connecting the Peers with the People: That you are, from the nature of your dignity, Conservators of the National equipoise. Maintain therefore with firmness your rights—resume your dormant privileges—surround the Royal Standard of the Queen, for the defence of the same; and with so sacred a trust, reposed in such hands, the proud Standard of Britain may be boldly unfurled, in defiance of foreign or domestic aggression."

"Mr. Broun's pamphlet is addressed to the Wives of Baronets, whom he styles 'BARONETESSES,' exhorting them to maintain their privileges, and teaching them in what manner 'they, their daughters and daughters-in-law, can understand their lawful rank and place in society, with the immunities and distinctions thereunto belonging.'

But alas for these fair dames, if they trust to such a guide!—for the code he offers them ‘swarms’ (to use his own phrase) with ignorance and folly. He informs them that their ‘husbands constitute an Order of *High Nobility*!’—that ‘that woman, being a Baronetess, must possess few sentiments of chivalrous magnanimity, and be unworthy of her station among the *high ennobled* MATRONAGE OF ENGLAND, who shall fail to maintain her first and lawful position as a member of the *sixth class* of the HIGH NOBILITY of Great Britain!’—that they are entitled ‘to have Habits of dignity, a Coronet, Supporters, and other insignia;’ that it is ‘an unquestionable truth that Baronets and their Ladies have been styled ‘Honourable’ *for time immemorial*,’ (the dignity itself never having been heard of until 1611!); that ‘they do not lose their rank should they afterwards form another marriage with persons of inferior rank to their first husbands;’ that ‘Baronets’ Daughters are *Knightesses* (!) by rank;’ and that ‘the Wives of Baronets’ eldest Sons are entitled to wear the Golden Collar of SS, a Robe, with a Chaplet or Cap of Dignity.’ He advises them to abandon the title of ‘Lady A.’ or ‘Lady B.,’ and to ‘have themselves announced as ‘the Baronetess A.’ or ‘the Baronetess B.,’ and to revive their ancient honorary style of ‘the Honourable,’ and to resume the Golden Collar of SS, and other ornaments, which the wives of Equites Aurati wore on court occasions and days of ceremony in former days.’

“Most of these fallacies have been exposed in our remarks on Mr. Crawford’s address; and it would be an utter waste of time and space to bestow another line upon Mr. Broun’s performance.”

At a more recent date this person, Broun,* favoured the public with a “Baronetage” of the Empire, in which the same vagaries are insisted on and retained.

* *Apropos*, there is an intense affectation in the orthography of the name. So far from *Broun* being uncommon and aristocratic, it is the very reverse. The old and familiar name was *Browne*. By the spelling of our “*Eques Auratus*” we are reminded of a pleasant and authentic anecdote connected with the ancestor of the present proprietor of Johnstonburn, a small property somewhere about Haddington, the possession of which entitles him, *more Scotico*, to style himself “Of.” The first of this tribe kept a shop in Edinburgh. He purchased Braid, which his son by extravagance lost. The father or son married a daughter of an Edinburgh Bailie named Crokot, to whom this place Johnstonburn belonged. This individual, after demitting his office of Bailie, was appointed Admiral of Leith,—a civic trumpery. A case once came before him, brought against the skipper of a vessel for the value of a *squirrel* which had been drowned while in his custody. The defence was that it had accidentally jumped out of the cabin window and committed an intentional suicide. “What for,” quoth this ‘High Admiral,’ “did ye no clip its wings?” “Clip its wings, my Lord!” was the response, “it’s not a bird, but a quadruped.” “Ped here, ped there,” rejoined Solon, “ye should hae clipped its wings. Decern!”

The son of Miss Crokot and Mr. Johnston got a situation, by the emoluments of which the *estate* of Johnstonburn was procured. This situation he acquired by means of the influence of an uncle who sold seeds and such like minute merchandise, and who, it is believed, was a member of the Town-Council.

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Accidentally, at the recent sale of Mr. Deuchar's rubbish, we picked up the printed report of a meeting relative to the Deceptive Association, which it is advisable also to preserve, as well as the interesting epistle, holograph of the "Honorary Secretary," written on its reverse.

"NOVA SCOTIA CLAIMS.

"At a Meeting of Baronets of Scotland, and Others having interest in Lands in British America, holden at No. 3, Great Cumberland Place, London, 2d February 1842;

"The Hon. SIR FREDERIC HAMILTON, BART. in the Chair;

"The Minutes of the last Meeting, held at the Thatched House, St. James's, on the 6th of April, the Most Noble the MARQUESS of HUNTLY, K. T. in the Chair, were read and confirmed.

"Mr. Broun reported:—That pursuant to the Resolutions of the last Meeting, the proceedings on that day had been printed and sent to the absent Members of the Order; that a Meeting had taken place on the 28th of April following, as appointed; that not forming so large an assemblage as was to be desired, the Baronets present had not come to any definite conclusions as to the course of procedure to be adopted; but that he (Mr. B.) had more fully brought under consideration the propriety of forming an ASSOCIATION of a public nature, for the combined purposes of promoting Emigration, establishing the rights, and managing the properties in North America of the Baronets and others who should join it.

"Further, Mr. Broun reported:—That during the course of last Session the Constitution of such an ASSOCIATION had been prepared at a series of Meetings held for that purpose; but that from the dissolution of Parliament, the change of Ministry, and other political movements, the final organization of the ASSOCIATION had been delayed till the present time.

"The Prospectus of 'THE SCOTTISH AND BRITISH-AMERICAN ASSOCIATION FOR THE FURTHERANCE OF COLONIZATION AND EMIGRATION' was laid before the Meeting, and it was reported that his Grace the Duke of Argyll had consented to accept the Office of President of the ASSOCIATION, and that it had already received the approval and support of many influential Members of the Order.

"The nature of the ASSOCIATION was explained to the Meeting, and is briefly as follows:—It is to be composed of two classes of Shareholders, proprietors and capitalists—the former to bring in *land*, the latter *money*. To these two elements of wealth is to be added population, and the profits of the three combined will be divided periodically amongst the Proprietary.

"Under this plan, every Baronet joining the ASSOCIATION will be allowed for such lands in Nova Scotia as he may assign to the ASSOCIATION, £1 per acre; two-thirds of the purchase-money to be liquidated in paid up shares, the remainder in cash, subject only to the deduction of any expenses that the ASSOCIATION may incur by

recovering the same. On these terms, each Baronet joining the ASSOCIATION will be relieved by it from the personal trouble and expense of prosecuting his individual claim, whilst in the event of a successful issue he would farther be relieved from the anxiety and outlay of colonizing his grant. Thus assuming that each Baronet joining the ASSOCIATION, shall through its instrumentality obtain a new grant of 16,000 acres in lieu of his original grant, for the mere benefit which the ASSOCIATION will obtain from his influence and coöperation, he will receive £5,333 : 6 : 8 in cash, and hold paid up shares for £10,666 : 13 : 4, upon which there will be a yearly augmenting dividend, as the resources of the Country shall be progressively developed under the exertions of the ASSOCIATION.

"It was also stated that the ASSOCIATION was to be under the effective management of a Board of Commissioners, to be composed partly of Baronets and partly of Shareholders, aided by a COURT, to comprehend the President, Vice-Presidents, Trustees, and Commissioners; that the Constitution contains special clauses protecting the above-mentioned Officers against liabilities, and limiting the responsibility of Shareholders to the amount of their respective subscriptions to the capital Stock; that conditional arrangements have been made for commencing operations upon a tract of land in Canada, admirably adapted, from its geographical position, to be the centre of the transactions of a great and powerful ASSOCIATION; and that such an undertaking, if taken up in a national spirit, and carried out with energy, could not fail to be attended with vast advantage, not only to those embarking in it, but to the public at large.

"Further it was reported:—That the Baronets, the Commissioners, and the Professional Advisers, by whom the ASSOCIATION has been formed, and its constitution matured, had for some time past given their best attention to the course of procedure now to be adopted relative to the Nova Scotia claims; that it appeared to them, under all the circumstances of the case, to be the most proper and judicious mode to present a MEMORIAL to the Secretary of State for the Colonial Department, for a new grant of unlocated land along the disputed frontier in New Brunswick, in lieu of the grants originally made; that the adoption of this course (which could be strongly urged on the favourable consideration of the Government, upon the ground that it would not disturb the existing Settlers, that it would most effectually strengthen British connection along the boundary line of the United States, and that it would provide an ample outlet for the distress existing in Scotland from surplus population) would not bar the Baronets, and others interested, from having recourse to legal proceedings, should the prayer of the MEMORIAL not be granted; and that as the Government has just appointed a Commissioner (Lord Ashburton) to go out to America to arrange the disputed Boundary Question, and is further understood to be favourable to Emigration as a great mode of relief for national distress, it was desirable that no time should now be lost in presenting the MEMORIAL, should it be approved of by the Meeting.

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"The MEMORIAL was then submitted. It contained in historical order an abstract of all the Royal Charters, Acts of Parliament, and proceedings of the Privy Council, relating to the erection and objects of the Scottish Baronetage during the reigns of James VI., Charles I., the Commonwealth, and the reigns of Charles II. and James VII. It showed that the rights of the Baronets were recognised and allowed by Acts of the Crown so late as 1698; that they were secured by the Act of Union; that they were reserved by the Treaty of Breda in 1713, by the Treaty of Aix-la-Chapelle in 1748, and were finally revived and restored by the Treaty of Paris in 1763. It accounted for proceedings not having been adopted for the revival of these rights, by the Revolt of the American States in 1775, by the French Revolution, and the long continental wars following thereupon. It set forth the mutual benefits which would flow to Scotland and Nova Scotia from the revival of the rights and objects of the Baronetage of Scotland, and it terminated by praying the Colonial Secretary to advise Her Majesty to make a consolidated grant of unappropriated lands in British America equivalent to the original grants of 16,000 acres for each of the Members of the Order, subject to the condition of the efficient settlement and colonization of the same within a period to be limited by Her Majesty, and for which provision has been made through the machinery of the ASSOCIATION hereinbefore mentioned.

"The Meeting having taken into due consideration these various statements and reports, and deliberated upon the same, the following Resolutions were proposed, discussed, and unanimously adopted:—

"1st, That in the opinion of this Meeting 'THE SCOTTISH AND BRITISH ASSOCIATION FOR PROMOTING EMIGRATION AND COLONIZATION' is well adapted to relieve Scotland of her surplus population, to strengthen British interests in North America, and to effect the combined objects of establishing the rights, and making available the properties in British America of such Baronets as shall join it.

"2d, That as the union and coöperation of every Member of the Baronetage of Scotland is needed to raise and successfully prosecute the valuable rights and privileges vested in the Order by the Acts and Charters of King James I., and King Charles I., the names of the Baronets (not being Peers) who have hitherto concurred in the proceedings shall now be added to the Consulting Council of the ASSOCIATION; and such other Baronets (not being Peers) as have not hitherto sent in their adhesions, shall be requested to allow their names to be added to the Consulting Council.

"3d, That the names of the Peers, being Baronets, who concur in the proceedings shall now be placed in the list of Vice-Presidents of the ASSOCIATION; and that such Peers, being Baronets, as have not yet signified their adhesion, shall be requested to allow their names to be added to the Vice-Presidents.

"4th, That no Peer or Baronet joining the ASSOCIATION, shall

by doing so incur any liabilities or expense beyond the Subscription (not less than £5 each) agreed upon at a former Meeting to defray the preliminary expenses.

"5th, That the MEMORIAL now submitted be adopted, signed by the Chairman of the Meeting on behalf of all such Baronets, and others having interest in Nova Scotia, as now or hereafter may concur in its prayer, and forthwith be presented to the Right Hon. Lord Stanley, Secretary of State for the Colonial Department.

"6th, That a Letter be addressed to Lord Stanley, with the MEMORIAL, to request that an opportunity may be afforded to the Baronets of a conference with his Lordship on the subject of the MEMORIAL, prior to his Lordship making an order upon its prayer.

"7th, That the proceedings of this Meeting be communicated to the absent Members of the Order—and that each of them be requested to write in reply, and to address their answers to 'R. BROUN, Esq. *Scottish and British-American Association, 29, New Bridge Street, Blackfriars, London,*'—to whom all communications and Subscriptions are to be sent.

"FREDERICK HAMILTON, Bart., *Chairman.*"

On the back hereof is written—

"29, NEW BRIDGE STREET, BLACKFRIARS, LONDON,
"14th Feb. 1842.

"SIR,—In reply to your letter, I transmit to you the proceedings of a meeting held on the 2d instant.

"You are entitled to join the Association as the heir of line of the Blackadders of Tulliallan, who had a grant of 16,000 acres of land in Nova Scotia,—and on remitting to me £5, I will add your name to the list of Baronets and others concurring in the proceedings.—I am, Sir, your obedient servant, R. BROUN."

To whom this epistle was addressed, does not appear. But it is believed that Mr. Oliphant of Condie is the representative of the old family of Blackadder of Tulliallan, through female descent.

In the "Edinburgh Evening Courant" of 27th March 1823, we read the following:—

"On the 22d March 1823, at Haddington, in presence of the Sheriff of the county, the Right Reverend George Pretymman Tomline, Lord Bishop of Winchester, &c. was, by a distinguished jury, of whom Lord Viscount Maitland was Cancellor, served heir-male in general of Sir Thomas Pretymman, Bart. of Nova Scotia, who died about the middle of last century. His Lordship also established his right to the ancient Baronetcy of Nova Scotia, conferred by Charles I. on Sir John Pretymman of Loddington, the male ancestor of Sir Thomas. The family of Pretymman, originally from Suffolk, and of great antiquity in that county, has produced many individuals celebrated

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for their virtue and loyalty. Although possessed of ample estates, they had, like many others, the misfortune to lose them all in the cause of Charles II., whose ingratitude to his faithful adherents is so notorious. Amid the vicissitudes of human life, it is pleasing to contemplate the revival of an ancient family in the person of a respected prelate, the friend and instructor of the immortal Pitt. The family were connected by marriage with the Stewarts, Earls of Bothwell, hereditary High Sheriffs of Haddingtonshire, on which account the service took place in that county. After the service, the noblemen and gentlemen of the jury partook of an elegant entertainment at Blackwell's. In the course of the evening, many appropriate toasts were given, which were enlivened by the taste and harmony of Gow and his excellent band; and the evening passed away with the utmost conviviality and cheerfulness."

On this event, the author of his life, in the 13th vol. of "The Annual Biography and Obituary" for 1829, after narrating Dr. Pretymann's repeated acquisition of fortune, says—"To these superfluities of wealth was shortly after added, for Mrs. Tomline's gratification (the Bishop himself was said to be indifferent to it), an accession of honour. On the 22d of March 1823, at Haddington, in the presence of the Sheriff of the County, Bishop Tomline was, by a distinguished jury, of whom Lord Viscount Maitland was Chancellor, served heir-male in general of Sir Thomas Pretymann, Baronet of Nova Scotia, who died about the middle of the last century; and his Lordship also established his right to the ancient baronetcy of Nova Scotia, conferred by Charles the First on Sir John Pretymann of Loddington, the male ancestor of Sir Thomas. The Bishop's eldest son now declines to assume this title."—P. 214.

The fact of the *service* is undoubted: that of the *establishment of right* is quite another thing; as certainly would have appeared had the menaced inquiry on the part of the Crown taken place, but which the death of the Bishop, and his son's prudent declination to assume the title, prevented.

Connected with the Bishop's marvellous assumption, the following articles appeared in the London newspapers:—

"AN HERALDIC QUERY.

"To the Editor of the 'Courier.'

May 24, [1824.]

"SIR,—As an old Nova Scotia Baronet, I had the honour of paying my dutiful respects to my Sovereign, at the Drawing-room on Thursday last, on which occasion I wore the badge belonging to my Order. A tawny-coloured ribband, with a similar badge appendant, around the neck of the Lord Bishop of Winchester, very naturally excited my attention and surprise; and I should have thought it a visual deception, if I had not observed, in the list of presentations published in your paper of Friday, the name of 'Lady Pretymann Tomline.' I have since called at the Heralds' College, in the hope of gaining some information upon this, to me, interesting

subject; but I was there distinctly assured that the Bishop is not recognised by the members of that ancient body as a Baronet of either of the three kingdoms. Some one of your antiquarian correspondents may perhaps assist me to an elucidation of this point. I trust, therefore, that you will allow me to avail myself of the extensive circulation of your Journal, for the purpose of requesting that favour. If it should appear that we have the honour of reckoning the Right Rev. Prelate amongst the Baronets of Nova Scotia, I shall be anxious for a reference to the *date* of the creation, in order that I may be enabled to regulate the precedency of the ladies of my family, at our expected visit in the vicinity of Farnham Castle. I remain, your constant reader, "A NOVA SCOTIA BARONET."

"NOVA SCOTIA BARONETS."

"To the Editor of the 'Courier.'"

"SIR,—An attempt has been made, through the medium of your paper, to impugn the right of the Bishop of Winchester to the Nova Scotia Baronetcy, lately taken up by him, by calling for the *date* of the creation upon which the claim is founded. I beg to refer this caviller to the *Court Calendar* of the present year, in which publication of authority he will find, in the lists of Baronets of Scotland, the following:—'*Pretyman Tomline, George Loddington* (Leicestershire), 1641.' It is true that this is the first appearance of the title in any similar list, or indeed in any of the Baronetages or Catalogues of that Order ever published; and it is also admitted, that neither the original patent, nor any record of it, has yet been discovered; but such a defect can only excite surprise in those who do not advert to the turbulent state of public affairs at the period of this creation, and for many years afterwards. The Bishop has disclaimed the authority of the Heralds' College to decide upon a question foreign to their jurisdiction, and has preferred the more regular, official, and effectual course, of substantiating his claim before a respectable jury, in the court of the Sheriff of Haddingtonshire, in Scotland, by whom, after a patient examination of the evidence adduced, his Lordship was, on the 21st of March 1823, served heir to the title and estates of the last Baronet, Sir Thomas Pretyman, who died in 1749.—I am, Sir, yours, &c.

"R. P. T."

May 29, 1824.

"JOHN BULL," May 30, 1824.

"We were not a little astonished to find the *Courier* lending its valuable columns to the circulation of insinuations which are the peculiar characteristics of the low and grovelling system of the radical press. To assail a Prelate, especially one more eminently distinguished by piety and learning, is part of *their* vocation; but the *Courier* is generally actuated by very different motives and feelings, and it is therefore that we thus express our surprise at its having become a party to the circulation, if not of an absolute falsehood, at least of a fact most falsely and injuriously stated.

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"We are now alluding to an anonymous letter which appeared in the *Courier*, professing to be written by a Nova Scotia Baronet, charging the BISHOP OF WINCHESTER with wrongfully assuming the rank and decoration of that order.

"That the BISHOP OF WINCHESTER should have taken up a title without a just claim and proper authority for its assumption, we at first sight considered impossible, and we have since received several communications, which convince us that our inference was just.

"It is so far true, as the anonymous correspondent of the *Courier* states (voluntarily and greedily adopted the next day by the libelling leveller in the *Times*), that the claim of his Lordship to an old Nova Scotia Baronetcy is neither admitted nor recorded in the English Heralds' Office: and for the best of all possible reasons; because that office has just as much to do with the matter as the Worshipful Companies of Cordiners, Merchant-Tailors, or Frame-Work Knitters—but, in the proper office, that is to say—the Heralds' Office of SCOTLAND, not only was the right of the BISHOP OF WINCHESTER ascertained and decided by the *unanimous* verdict of a Jury, with the Chancellor LORD MATTILAND at its head, but regularly, duly, and officially registered under the hand and seal of LORD KINNOULL, whose office (dapper and insignificant as he looks) is, under the title of LORD LYON KING AT ARMS, precisely equivalent to that of the English EARL MARSHAL. So much for the perversion of a plain fact, which could not have arisen either from ignorance or over-zeal, and therefore is attributable either to malignity or some interested motive not very difficult to be guessed at.

We happen to know that no Nova Scotia Baronet seconded the newspaper claim—we happen to know that the letter was inserted by one who felt, that if old honours were admitted without *certain fees of office being paid*, nearer home the market might be injured. We shall spare the writer for the present, and leave him to make what he can *legitimately*, provided that the paid and hired recorders of ARISTOCRATIC DISTINCTIONS do not forget themselves and their trade so far, as for a selfish purpose, and with a mercenary feeling, to join the ranks of *levelling Radicals*."

"BARONETS OF NOVA SCOTIA.

"To the Editor of the '*Courier*.'"

[June 8, 1824.]

"SIR,—A simple question of precedence has brought into the arena two champions for the Baronetcy lately '*taken up*' by the Bishop of Winchester; the one introduced by your paper of Saturday the 29th ult., the other by *John Bull*, a few hours afterwards; both, if I may judge by the angry tone of their defiance, having a more than ordinary interest in the issue. The *Court Kalendar*, however, brandished by the one, and the *mal apropos* charge of radicalism by the other of these heroes, are weapons not very appalling to their opponents, who happen to present a most formidable front, as they consist of all the Nova Scotia Baronets created sub-

sequently to 1641, the whole body of Baronets of Great Britain created since the Union with Scotland, and the Baronets of the United Kingdom. These must all yield place and precedence to the Bishop of Winchester and his posterity, if the claim of the learned prelate should be acted upon.

"The case rests upon a point of fact, not of inference. All Baronets are created by the following process:—The King issues a warrant under his signet, directing a bill to pass the Privy Seal; and a writ of Privy Seal thereupon authorises the grant under the Great Seal. Of these three instruments a record is preserved in the Public Archives of the Kingdom, and the records of this description, as well in England as in Scotland, are perfect for the period to which this presumed creation refers. Now, the Bishop of Winchester asserts that an individual of the name of Pretymán was created a Baronet of Nova Scotia in 1641; but he cannot produce the original Patent of such creation; and there is no trace amongst the public records either of the grant itself or of the preparatory instruments; the necessary conclusion, therefore, is, that no such grant ever passed.

"I am informed, upon inquiry at the Heralds' College, that Sir John Pretymán of Loddington, in Leicestershire, *Knight*, soon after the restoration, described himself '*Knight and Baronet*,' and was therefore so called by others. He died in 1676, and Sir George Pretymán, his son (who had been Knighted in his lifetime), continued the style of '*Knight and Baronet*;' and having, as is stated by the Bishop himself in his case, with reference to Dean Swift's *Journal to Stella*, fallen into great poverty, went begging from house to house in the reign of Queen Anne. This Sir George had two sons, George and Shirley; by what became of them is not known. It appears that William Pretymán, a younger brother of Sir George, afterwards assumed the title of Baronet, and was buried by that description at Greenwich in 1719; and it was lastly used by Thomas Pretymán (son of Thomas, the youngest brother of Sir George), who died an inhabitant of Morden College, Blackheath, in the year 1749. From that period, the doubtful title was no longer used.

"I also learn, that about five years since, the Bishop of Winchester exhibited a pedigree at the Heralds' College, purporting to show that he was a lineal descendant of the body of the said Sir John Pretymán, and, as such, entitled to the honour in question. This pedigree, upon an examination of the evidence upon which it was constructed, was rejected by the College for want of the requisite proof; and it was, moreover, discovered, in the course of the laborious investigation then had, that Sir John Pretymán was not only *not* created a Baronet in 1641, but that he had been described, in a series of deeds enrolled in Chancery, before and during the Commonwealth, and down to a few months before the restoration, by the appellation of '*Esquire*;' and that, in the month of August subsequent to the restoration, he was described in Letters Patent

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"The Learned Prelate, thus disappointed in establishing in the Heralds' College his pretensions as *heir male of the body* of Sir John Pretymán, appears to have had recourse to an assumption that the Baronetcy, of the grant of which no trace existed, had been limited to that of *heir male general, or whatsoever*; and, abandoning his former claim of descent *from* the alleged Baronet, sought to make himself the *collateral heir male* of the same individual.

"Having, in this character, deduced his descent from William Pretymán, a worthy Suffolk yeoman, who was living in the reign of Henry VII., and is presumed, by a very probable hypothesis, to have been also the ancestor of Sir John Pretymán of Loddington, Knight, his Lordship proceeded to Scotland, where, upon an *ex parte* statement of his evidence in support of such collateral descent, and although not an acre of land, either in Haddingtonshire or elsewhere in Scotland was in question, or a drop of Scottish blood was flowing in his veins, he procured himself to be served heir to 'Sir Thomas Pretymán,' who died in 1749, by a process which is justly estimated by every person acquainted with the nature of such a proceeding, and has been pretty accurately described by the great Scotch novelist in *Guy Mannering*, and more recently in the entertaining work of the 'Life of Matthew Wald.'

"With these facts before the public, do the partizans of the Bishop of Winchester act with fairness when they deny the authority of the Heralds' College in England, to take cognizance of his case—an authority to which his Lordship had himself had recourse in the first instance, under an impression, it cannot be doubted, that the sanction of that body would be the best support of his pretensions.

"One word as to the general question of the official cognizance of the Earl Marshal of England in matters of this kind. It is well known that, in all public ceremonials where the different degrees of rank belonging to the three kingdoms are marshalled, the whole is under the exclusive direction of that high Officer of the Crown; and it is therefore especially within his province to guard the rights of all persons enjoying hereditary distinctions. Neither is this a question of party—and it ill becomes the pretended supporters of the Aristocracy of the country to denounce as *radicals* those who are desirous of preserving the purity of that Aristocracy by sifting the pretensions to a title of honour assumed under circumstances similar to that in question.—I am, Sir, yours, &c.

"PHILALETES."

Some fifteen years later, we find the following in the "Edinburgh Evening Courant" of May 26, 1838:—

"THE LEMAN CASE.—On Monday week, in pursuance of a Brief issued from her Majesty's Chancery, directed to the Magistrates of Canongate, a highly respectable Jury, several of whom were of the legal profession, returned a verdict in favour of Sir John Leman of

Northaw, Baronet (formerly of Nottingham, now residing in Edinburgh), as nearest lawful heir-male to his cousin Sir Tanfield Leman, Baronet, who was the great-grandson of Sir William Leman, first of Northaw, High Sheriff and M. P. for Hertford in 1634, and for his distinguished merits was afterwards created a Baronet, by letters-patent dated March 3, 1665. Sir John is the male representative of his ancestor Sir John Leman, Lord Mayor of London, who flourished during the reign, and was a favourite of King James I. of England; and we are informed that Sir John Leman, Baronet, is entitled to immense funded and territorial properties belonging to his progenitors, which were thrown into Chancery by orders of that Court, till the rightful heir was legally ascertained. In the evening the claimant gave an elegant entertainment to the Judge, Jury, and a select number of Sir John's friends; R. W. Hamilton, Esq., agent for the General Steam Navigation Company, presided as chairman. The party spent a most harmonious evening, and they did not separate till an early hour."

The above is cited, along with the case of Pretymann, to show what can be effected by a legal nuisance. It will be observed that both these families were purely *English*, without ever having possessed one acre of land in Scotland; and that in the case of *Leman*, the dignity was that of a Baronet of *England*, and not of *Nova Scotia*.

This legal nuisance, the source of numerous evils, is the improper system of what is denominated "Services" in Scotland, by means of which any person—no matter of what nation or whoever he may be—can obtain himself declared, by a jury of twelve individuals—the more ignorant the better—heir to any one whom he may choose to claim as his ancestor, however distinguished the title, or valuable the property depending upon such claim. The manner in which these mockeries of justice, or rather legalized impositions, are set about, is notorious. A man imagines—or the suggestion is put in his head by one of those unprincipled fellows called "Genealogists"—that he represents, in some undefined shape or other, a Baronet or Peer (the former is the hack cheat), whose dignity, in nine cases out of ten, is not dormant, but *extinct*, and immediately, by dint of extracts from old Red Books, a few loose memoranda from vague records, and sturdy assumptions, utterly destitute of evidence but advanced with the persevering impudence of an attorney, the Magi who are convoked—(like the banqueters in the parable, from the highways and lanes)—find and declare the worthy claimant to be the representative of a family of which he possesses not in his veins one drop of the blood, or with which he has the remotest connection, or, it may be, with even the country to which it belongs. There is no one, perhaps, in a position to oppose; the law has provided no

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check for such practices, and incalculable injury is daily done both to private parties and to the public at large. These evils have been particularly felt in matters of English dignities; and the recent case of Humphries, the *pseudo* Earl of Stirling, is a striking instance of how the State may be inconvenienced by such a lax and indefensible system,* and private parties have been in the Leman case above noticed. For the claimant therein served is by that deed of service enabled to raise money, and has proceeded to harass the tenants of sundry estates, under colour thereof; and his agents, availing themselves of the facilities afforded by the service, which is presumed by parties ignorant of the real fact to be the recognition by a proper tribunal, have proceeded to make and fashion his pedigree so as to lead to the recovery of large estates, by fraudulent and false evidence, thereby inflicting very serious injury on individuals and the common weal. As a specimen of some of the incidents connected with this said Leman case, the following recently appeared in the "Globe" of Wednesday, June 24th last, 1846:—

"COURT OF BANKRUPTCY, JUNE 23.

"*In Re* EDWARD GODFREY LEMAN.

"THIS case came before the Court to vacate the proceedings. The insolvent was sued as Sir Edward Godfrey Leman, and claimed the estates belonging to the "Leman" family. It was contended, in showing cause, that the application was not duly made, and that it was not a proper case for the exercise of the discretionary power of the Court. The insolvent was heard at Nottingham: he was an old man of eighty, found in some almshouses, having been a brick-maker, and was put forward as the heir of the Leman estates and the title of Baronet. Mr. Hawkins had some property in White-chapel, which had been in his family for a century, and the old man had mixed himself up in the matter so as to become liable for the costs; and hence his application to the Court. There were parties moving in the case, and their object was to get the proceedings vacated with the view of further litigation. No affidavit was made by the old man, but by an affidavit on the other side it appeared that the present application was made without his request. Therefore it was insisted that the application should be refused.

* Among the assumptions of this man Humphries was a right, in virtue of the original grant to Sir William Alexander, whose representative he pretended to be, to confer the title of Baronet of Nova Scotia on whomsoever he pleased. Accordingly, being highly satisfied with the services and *fictions* of of Banks the "Genealogist" he dubbed him Baronet, and this man Banks ridiculously adopts it to the present day. In a very excellent local history, recently published (Walbran's History and Antiquities of Gainford), the author expresses his gratitude for assistance received in framing the Fotherby pedigree from "the kindness of Sir T. C. Banks, Bart."!

Mr. Cooke, in support of the rule, said, if Mr. Hawkins had been paid, as was admitted, the application should be granted.

The Court thought the rule was answered.

Mr. Cooke offered to show that the application was made without his concurrence.

The Court said the rule might be enlarged, and on the next occasion, if it was not satisfactorily shown that it was made with his sanction, it would be refused, as it would not then appear to be 'duly' made as required by the Act."

To remedy this crying abuse, to the disgrace of our legal authorities, no steps have ever been taken, albeit repeated remonstrances have been made by professional as well as private individuals. Nay, we know that the Chapter of the Herald's College of England memorialized the present Lord Advocate, when he formerly held office, in reference specially to the very case of Leman, which Memorial was, with singularly unaccountable discourtesy, neither acknowledged nor acted upon. And when the *ex* Lord Advocate last year introduced "A Bill to alter and amend the Law and Practice in Scotland as to the Service of Heirs," which, however, went no farther,—he strangely omitted in any way to remove the great bane of the existing system. For although the 11th and 12th sections of the Bill * admit of competition, yet the frauds take place because there is no person interested in opposing, and the evidence is all *ex parte*. This really demands early attention on the part of the Legislature; and the drawing up of any Bill tending to correct the present system ought to be entrusted to some English lawyer, and not to any member of the Scottish Bar, whose circumscribed ideas and prejudice in favour of obsolete practice

* "§ XI. And be it enacted, That it shall and may be lawful to any person conceiving that he has a right to be served preferable to that of the person petitioning the Sheriff as aforesaid, also to present a petition to the Sheriff in manner and to the effect aforesaid, and which shall be intimated in manner above directed; and it shall and may be lawful to the Sheriff, if he shall see cause, to confirm the said petition, and thereafter to proceed to take evidence in manner hereinbefore directed; allowing to each of the parties, not only a proof in chief with reference to his own claim, but a conjunct probation with reference to the claim of any other party; and the Sheriff shall, after receiving the said evidence, pronounce judgment on the said petition, serving, and refusing to serve, the petitioners respectively, as may be just; and the extract of every such judgment, given out to the petitioner thereby served, shall specially and articulately set forth the particulars hereinbefore required, and be transmitted to Chancery, and be duly recorded, in manner and to the effect before provided.

"XII. And be it enacted, That no person shall be entitled to appear and oppose a service proceeding before the Sheriff in terms of this Act, who could not competently appear and oppose the service proceeding under the laws of inquest, according to the law and practice heretofore existing; and all objections shall be presented in writing, and shall forthwith be disposed of in a summary manner by the Sheriff."

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may tend to make matters rather worse, if possible, than they are at present.

Among those families who assume to themselves Baronetries without any right thereto are—

THE DALYELLS OF BINNS.—Since the demise of the late so-called Sir James Dalryell, his brother Sir John Graham Dalryell, Knight, who from his dabbling in legal and antiquarian lore cannot be ignorant how the matter stands, has continued to usurp the title. The fact is, the members of this family are not Dalryells, but *Menteiths*; as, in 1688, James Menteith of Auldeathy married the elder of the two daughters of Sir Thomas Dalryell, first Baronet of Binns. This Baronetcy expired in the person of Sir Thomas, second Baronet, who died unmarried, and the estate of Binns then passed by marriage of the elder co-heiress aforesaid. It is pretended that the patent of creation confers the dignity on the grantee and his *heirs of entail succeeding to the estate of Binns*; but no such patent can be shown, and such a destination of the honour is altogether inconsistent with the patents of other Nova Scotia Baronets, which invariably run in favour of heirs-male.

In like manner the RICHARDSONS OF PENCAITLAND AND PITFOUR. The present so-styled Sir John proved his propinquity to a person who had assumed the title without lawful right thereto, and in virtue of his service to the *pseudo* Baronet now makes use of the title.*

Thus also the DUNBARS OF DURN.—The person calling himself the Rev. Sir William Dunbar,—and who has recently acquired a somewhat unenviable name from having been excommunicated by his Bishop for contumacy,—has no right whatever to the title, which expired in the person of the late Sir James Dunbar, who died in 1813.

We should likewise desire to know what right can be shown for the assumption of the Baronetcy of Nicolson and Lasswade. Can

* "On Monday last, the 9th January, before the Sheriff of Perth, and a highly respectable Jury, John Richardson, Esq. of Pitfour, was served nearest and lawful heir-male of Sir John Charles Richardson, Bart., Commander in the Royal Navy, who died at London some time ago, without issue. By this service Mr. Richardson, now Sir John, has become a Baronet of Nova Scotia under a patent granted by King Charles the First in 1630. We understand that the estate of Smeaton, in Mid Lothian, which formerly belonged to the ancient family of Richardson, was sold many years ago, and is now in the possession of the Duke of Buccleuch. After the service, a number of the friends of Sir John Richardson, who is now in England, partook of a sumptuous dinner at the George Inn, and spent the evening with much hilarity; and on the following day, the tenants on the estate of Pitfour had a similar convivial meeting, to express their congratulations to their landlord on his accession to his present title."—(*Courant*, January 12, 1837.)

any better than a wretched "service" to a lineage as exhibited by the unfailing Mr. Burke, support those claims? But the pedigree may satisfy the *phocæ* of Zetland, where the "eighth and present Baronet" is said to exist. We might, if we had space, disqualify *at the very least* one third of these Nova Scotia puppets.

Bastardies are exceedingly numerous in Scottish families. A curious illustration of the manner in which the compilers of Peerages and Baronetages contrive to pass over such matters, appears in reference to the Sinclairs of Ulbster, recently exposed in the columns of the Gentleman's Magazine:—

"Amongst the genealogical collections formerly belonging to Douglas the Peerage writer, and subsequently acquired by George Chalmers the author of Caledonia, occurs the following letter, which, as correcting a mistake recent writers on genealogy have fallen into, may be worthy of preservation in the pages of the Gentleman's Magazine:—

"21 January 1758. Please inform Mr. Douglas, that George, who he calls the second son to the Earl of Caithness, was his third son. John, Master of Caithness, was the eldest, the second was William, and the third was George. William died without lawful children. Ulbster's family is descended of a bastard of William's,* and, upon William's death, George succeeded to the estate of Mey. The contracts of marriage of the family of Mey are mostly in his charter chest, where it's not easie to find them, and a good many of them in processes at Edinburgh, which Mr Budge can direct. I think you may venture to assure Mr. Douglas that all the marriages insert in the note I sent are just, and no bastards insert in it: for they had not a bastard that was of fortune but Ulbster, and he is the bastard of William that died without any legitimate heirs, for, if he had had any legitimate children, they would have succeeded to Mey before George the third son."

"In the old edition of Douglas, William is altogether omitted, but in the edition published by John Philip Wood, Esquire, 2 vols. folio, he is restored to his proper place as second son, and George, the ancestor of the present Earl, is entered correctly as the third.

"Sinclair of Barroch or Barrach, the writer of the letter, was descended from the third son of George Sinclair of Mey, and this branch, in the event of the failure of the present one, would succeed to the Peerage of Caithness.

"It may be proper to add, that this account of the origin of the family of Ulbster is corroborated by Father Hay in his curious

"* William had two natural sons, who were legitimated in the usual way by letter of legitimation from the king. This gave them certain privileges, but they still remained incapable of assuming the right competent to lawful children."

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Memoirs of the Saint Clairs of Roslin, a few copies of which were for the first time printed from the original MS. in 1835, (Edinburgh, Thomas G. Stevenson, 4to.) where the name of the mother will be found. She was a Margaret Mowat, a daughter of Mowat of Bochully. But for the bastardy, the Sinclairs of Ulbster would have succeeded to the Caithness Earldom."—*Gent. Mag.* vol. xx. p. 260.

"T——L HOUSE, March 25.

"In a book entituled 'Memoirs of the Life and Works of the Right Honourable Sir John Sinclair, Bart.,' written by his son, the Rev. John Sinclair, M.A., and published at Edinburgh in 2 vols. crown 8vo. 1837, there is a preliminary account of the ancestry of the Baronet, in which an indirect attempt is made to engraft him on the legitimate stock of that branch of the Sinclairs in which the ancient Earldom of Caithness still exists. The sister of the learned writer is well known as the authoress of several amusing though inaccurate productions; and this lady, without the slightest hesitation or demur, is incessantly trespassing on the patience of her readers with notices of her illustrious ancestors the Earls of Caithness. Both brother and sister, however, seem to be ignorant of the fact that their connection with the Caithness family is one not recognised in law, seeing that the founder of their family was illegitimate. This ignorance is the more remarkable, as the reverend gentleman and the lady have a brother who follows the calling or occupation of a genealogist, and who has given the world a tolerable estimate of his talents in that line in the publication of a treatise on the meaning of the words 'heirs-male' in the patents of Scottish peers.

"Now this gentleman, whose unceasing inquisitiveness in all matters of pedigree astonishes and delights all those who have the honour of his acquaintance, should have put his pen through the following passage, which occurs at page 3 of his brother John's Memoirs of his Father:—

"George, fifth Earl of Caithness, conveyed, in 1596 and 1603, the lands of Ulbster to Patrick Sinclair, whom in both grants he designates his cousin. Dying without issue, Patrick was succeeded by his brother John, styled Master (Magister), *a title of honour peculiar in those times to professional scholars.* To this learned gentleman the same Earl renews the former grants, for the particular love and favour that he bears towards his cousin Master John Sinclair of Ulbster. This charter was confirmed by the Crown in 1616."

"That the eldest son of a Scottish Baron was termed, and is termed, Master, is unquestionably true, but that the word Magister, or, in ancient Scottish parlance, '*Maister*,' was a title of honour in the circumstance here set forth, is altogether preposterous, as, so far from being esteemed an honourable distinction, it was uniformly applied to professional persons. Thus notaries-public, a very subordinate class, were so termed; so were teachers or *dominies*; and

probably the highest grade to whom it was assigned were preachers:—thus the well-known Robert Bruce was called 'Maister;' so was John Knox, &c. The probability is that this John was either a notary-public or a dominie. The expression *consanguineus* or cousin proves nothing, as it was not unusual for the great feudal lords of that period to style their vassals or retainers so, the more especially where they happened to be illegitimately connected with them.

"At a subsequent place the Rev. John, in treating of the descendants of the learned John, records amongst the most distinguished of the family 'John Sinclair of Brims, who served during the thirty years' war in the Scottish army, and Sir George Sinclair of Clyth,' &c. It is therefore a fact that Sinclair of Brims was a descendant of the learned Patrick; and, as the former was an ancestor of the late Sir John, it will admit of no controversy that Maister John Sinclair was the common ancestor.

"The question therefore comes to be, Who was Maister John? Now in the Great Seal Record, preserved in the General Register House in Edinburgh, Lib. 45, No. 18, there occurs a legitimation dated the 20th June 1607—'*Patricio et Magistro Joanni Sinclair filiis naturalibus quondam WILLIELMI Sinclair de Mey.*' William Sinclair of Mey was succeeded in his estate by his younger brother George, the ancestor of the present Earls of Caithness; it is therefore plain that, had not Maister John been a bastard, he would have inherited the estate of Mey, and his descendant, Sir John Sinclair, would have been Earl of Caithness.

"The letters of legitimation are decisive on the question; their effect, as all Scotch lawyers know, was to enable a bastard to make a settlement of his estate, and the object of the royal licence referred to was to enable Maister John to succeed to the lands of Ulbster. The application, therefore, for such authority was conclusive as to the illegitimacy of those who thought proper to make it.

"To add further authority seems almost unnecessary; but for at least 150 years afterwards the Ulbster family bore the distinctive mark of bastardy upon their arms. These marks are (at least in Scotland) either the baton sinister or the gobonated border;—thus Nesbit remarks in his *Heraldry* (1727)—'Bastards are distinguished either by a border gobonated, or by a sinister bar.' Again he says—'This border has not only been used by the issue of bastards, but even by bastards themselves, so that the border gobonated is become more suspicious of being a sign of illegitimation than any other figure in heraldry except the baton sinister.'—p. 13, vol. ii. Thus the Duke of Beaufort wears a gobonated border, probably in consequence of the double illegitimacy in his family, whereas some at least of the ennobled descendants of Charles II. bear only the baton sinister.

"Accordingly Nesbit thus describes the arms of the Brims family—'John Sinclair of Brimmes, a son of a second marriage of Mr. John Sinclair of Ulbster, descended of the family of May, come

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of the House of Caithness; his arms are 'surrounded by a border gobonated.' Again, Patrick *Sinclair of Ulbster* has his arms within a 'bordure gobonated.'

"When this distinctive mark of illegitimacy was removed does not appear, yet it could not have been much before the time of the late Sir John; indeed the circumstance was well known among the gentry of the county of Caithness, for during one of the political contests for that county, when party ran high, the worthy Baronet was looked upon as a kind of *novus homo*, and one aristocrat of high family, although holding the same politics, refused to vote for the great agriculturist, asserting that 'his bonnet was toom' (i.e. empty, or not tied behind), meaning thereby, according to the phrase in that part of the world, that he came of illegitimate stock.

"I observe in a former number* a communication relative to the Caithness pedigree, in which the error as to the legitimacy of the Ulbster family is pointed out. Probably your correspondent had not seen the passage from the Memoirs of Sir John, as he would undoubtedly in that event have been more precise in his proofs.—Yours, &c. "LEGITIMUS."—*Gent. Mag.* vol. xxi. p. 591.

It is amusing to observe how professing Genealogists contrive to slur over the plebeian origin of some families, and fill their veins with blood of kings whose very existence history scarce can indicate. Of these thaumaturgic operations of pedigree-spinners a droll instance may be given in that of the Murray-Macgregors:—Burke, after informing us that "the family (or clan) of Macgregor deduces its lineage from Achaius, the celebrated King of Scotland, who commenced his reign in 787," rapidly overtakes the great-grandfather of the present Sir John-Atholl-Bannatyne-Macgregor-Murray, whom he introduces as "Evan Murray, Esq., who served as a military officer with great distinction in Germany"—(Debrett, "as a Major in his brother Robert's regiment!") Who could think that this illustrious military hero could resolve into simple Ewan Murray, *Vintner* at west end of Loch Earn, aged thirty-four in 1752, when he was examined as a witness in the trial of James Stewart for the murder of Campbell of Glenure! Mr. C. K. Sharpe informs us that old Mrs. Campbell of Monzie, a relative of his own, well remembered the old publican, in whose wretched hostelry (a small alehouse at Lochearnhead), she had often been. She never heard any thing of the great M'Gregor descent, which was probably an after-thought, upon the son's acquiring wealth in the East Indies.

In reference to this particular clan of bare-bottomed Celts, the

* "September 1843, p. 290."

late Dr. Gleig, one of the Bishops of the Scottish Episcopal Communion, contributed the following letter to the columns of the Monthly Magazine. But the authorship having been discovered, the reverend gentleman was so alarmed for the vengeance of the race of Gregor, that he penned the humble apology which immediately succeeds it:—

"To the Editor of the Monthly Magazine.

"SIR,—In the present eventful era, which has witnessed the downfall of so many ancient and illustrious families, I am surprised to see so little of the public attention drawn to the *royal* family of MAC GREGOR. Let not your English readers smile at this epithet; for it is an epithet unquestionably just,

"In that most *authentic, valuable, and judicious* work, entitled, *The Baronage of Scotland*, we have a history of the family, written, it has been said, by him who now claims to be the chief; and surely the testimony of such a writer must carry conviction to the most sceptical mind. Indeed, the narrative is drawn up with a *modesty* which flashes conviction in the reader's face. 'Though the royal descent of this most ancient clan might be traced from the chronicles of the Scottish kings to the remotest antiquity, we shall here,' says the illustrious author, 'carry it no farther back than the immediate undoubted progenitor, PRINCE GREGOR, third son of king Alpin, son of the celebrated Achaius king of Scotland, who began to reign Anno 787.

"To me, who know so well the number and the authenticity of the Scottish records *prior* to that period, the self-denial of him who did not make use of them to carry back his pedigree to Japhet the son of Noah, supplies the place of 10,000 proofs of the truth of the descent which he has traced. Indeed I am now thoroughly convinced, with a member of the clan who was both a poet and an antiquarian, that there are but four houses of high antiquity in Europe; the house of *Austria*, the house of *Bourbon*, the house of *Stewart*, and the house of MAC GREGOR; and of these it is a question undecided, whether the house of Stewart be any thing more than a *branch* of that of MAC GREGOR.

"Of these four illustrious families, the fate has been very remarkable. The chief of the house of Stewart is now a catholic priest; the male line of the house of Austria failed in 1740, by the death of the emperor Charles VI.; and the head of the house of Bourbon has for six years been a wandering exile; but the history of the house of Mac Gregor is still more extraordinary than that of any of the other three.

"About the beginning of the last century, after having for many years before committed what their *enemies* called 'vast outrages and depredations,' the Mac Gregors, under the conduct of their chief, massacred the Colquhouns, a neighbouring clan, with such circumstances of treacherous atrocity, that the name of Mac Gregor was abolished by act of parliament, and the whole clan declared outlaws.

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It will naturally be thought that such a law could not have been passed against a family so illustrious, but upon the most complete evidence; and it must be confessed that the public opinion on this occasion acquiesced in the wisdom and justice of the legislature. But, notwithstanding these presumptions, the historian of the clan, whom we have already quoted in terms so respectful, has proved, by evidence the most incontrovertible, that his family was innocent, and the Scotch parliament a pack of knaves. 'Mr. Alexander Ross,' says he, 'professor in the university of Aberdeen, makes it plainly appear, in a Latin history of the family of Sutherland, how grossly this unfortunate clan have been misrepresented and abused;' and surely no man of common sense will pretend that even an *act of parliament*, corroborated by *public opinion* and the testimony of *all our historians*, can invalidate the credit of a *professor in the University of Aberdeen!* It is true, that Charles II. having repealed the law which abolished the name of Mac Gregor, King William judged it necessary to revive it, on account of some new depredations committed by the clan under the conduct of *Robert Roy*: but what is King William when compared with *Professor Ross*?

"The effects of these unjust laws were various. The Clan was broken and dispersed. Some of them took one name, and some another; and they emigrated in multitudes to Germany, France, Italy, and Ireland. As the learned historian already mentioned has not traced the *Irish*, *Italian*, or *German* branches of his family, it is incumbent upon me to prove that there are any such; and, fortunately, the proof is concise and conclusive.

"That all-accomplished hero, who is recorded in the Baronage as having performed prodigies of valour when not yet fifteen, has just now raised a regiment of fencible infantry, to be employed by his king against the common enemies of Europe. In that regiment are some Germans, some Italians, and many Irish; and as one of the officers was lately *cow-keeper* to the minister of Balquhiddy, about sixty or seventy miles west from this—another a *tailor*, in the village of Callander, where his father still follows the same business, and keeps a *dram-shop*—and a third a *gauger*,—it is hardly conceivable that these foreigners, especially the *Germans*, would obey such officers, were they not convinced that they have all sprung from the same royal stem. It may, indeed, appear surprising to some of your readers, that the Chiefs of so illustrious a family should have selected such men for commands in their regiment: but let it be remembered, that the blood of *Prince Gregor* circulating in his veins is more than sufficient to ennoble the meanest tailor or herdsman on earth. There was policy, too, in making officers of *cow-keepers*, *gaugers*, and *tailors*. The French armies have been invincible under their low-born generals; and what must be the prowess of the *Royal Clan-Alpines* (for that is the name of the regiment), when they unite in their officers the advantages both of low and high birth!

"The exploits of this wonderful regiment, I have no doubt, will evince the wisdom of that legislature which lately restored the name

of MAC GREGOR; and I do not despair of living to see its heroic commander sitting in the House of Peers by the style and title of DUKE OF GLENFALLOCH. By inserting this supplement to the history of the illustrious house in your next number, you will much oblige all the Mac Gregors, as well as an ally of the family, who is your constant reader and admirer,

GREGOR MAC NAB.

119 South Bridge Street, Edinburgh,
May the 22d, 1799.

RETRACTATION AND APOLOGY CONCERNING THE MAC GREGORS.

"THE author of the letter which was published on the 1st of August last in the London Monthly Magazine, with the fictitious signature of GREGOR MAC NAB, acknowledges the said letter to be a gross, unprovoked, and unmerited libel; that it contains the most injurious misrepresentations of the Royal Clan-Alpine regiment, reviving old calumnies, and deducing from these calumnies inferences injurious to the family and the whole Clan of MAC GREGOR, whose conduct and real characters are, in all respects, as unexceptionable as the conduct and character of any other Clan or class of his Majesty's subjects whatsoever.

"On real consideration, I am sensible that it was unbecoming in me to aim any sarcasm at that legislature which restored the Mac Gregors to their franchises, seeing it must in candour be admitted that, in the *indiscriminate* prescription of that tribe, the rights and liberties of the subjects were manifestly violated; that the long continuance of their privation of law was an intolerable grievance; and consequently, that the legislature which abolished the prescription acted a virtuous part, in the discharge of a *duty*, which it owed not only to the injured Mac Gregors, but also to the people at large, whose constitutional freedom, and most valuable rights and privileges, had through them been infringed.

"*Deeply penetrated with compunction* for having been hurried on by sudden but *unmerited* resentment against a *single individual*, to prostitute his pen and misapply his talents to the unworthy purposes of defaming the dead, and endeavouring to rekindle extinguished and groundless prejudices against the innocent living, he sees the complicated mischief of such conduct in colours as strong as those in which it can be viewed by the injured parties themselves; and he laments that the apology which he is capable of making is insufficient to atone for offences, which even the *regret* and *contrition* that, to the *last hour* of his life, he *must* have, though they may, *perhaps*, extenuate them in the breasts of humanity, never can thoroughly wash away.

"Desiring forgiveness of every individual of the Clan-Alpine Regiment and of the name of *Mac Gregor*, he has thrown himself entirely upon the mercy and placability of the parties chiefly injured; and he considers himself as deeply indebted to them for the *magnanimity* and *humanity* with which they have accepted of, and declared themselves satisfied with, these *sincere concessions* of the OFFENDER."

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Enough has for the present, perhaps, been said on the Baronets and *mighty men* of the North, for the length of our quotations has extended these introductory remarks beyond due bounds. We shall probably ere long resume the subject in a different shape. In the meanwhile, since the annexed Prospectus was printed off, another has been placed in our hands, differing from the former in so far as it holds out the following inducements:—

“PRINCE EDWARD’S ISLAND SETTLEMENTS AND FISHERIES.

“The Companies already formed for this object are producing the most beneficial results, both to the shareholder and the emigrants; still there is ample room for the exertions of others to aid in the introduction of British capital and British industry to the vast field open for their application.

“Among the various objects presented by these extensive and prosperous Colonies for the advantageous investment of capital, and the profitable employment of industry, none hold out more certain or speedy prospects of success, or of a better return for the money and labour expended on them, than the FISHERIES in the Gulph of St. Lawrence. This most important source of national wealth, which the French considered more valuable than the gold mines of Peru, has hitherto been treated with a neglect no less astonishing than well known, and it has led to the total relinquishment of its advantages to the citizens of the United States, and to the French, both of whom have not failed eagerly to profit by it. It is no uncommon occurrence for seventy sail of American fishing craft to be seen at once in any of the numerous bays on the British coasts; and thus the trade which would afford a nursery for a hardy and skilful race of sailors for the British crown, is converted into one of the main supports of a powerful and industrious rival.

“The shores of almost every part of our possessions surrounding the Gulph of St. Lawrence literally swarm with fish of various species, which, in succession, crowd the bays and creeks of the coast. Early in the spring, shoals of herring visit these localities, and are succeeded by the gaspereaux and the mackarel. The cod, pursuing the herring, often fill the harbours, and are to be met with in the greatest abundance off the coasts during the whole of the summer. The Americans are prohibited by treaty from fishing within three miles of the land; but they carry away with them annually many thousand barrels of each description, almost from our own bays and within view of our shores, and sell them in British markets. For every variety there is an abundant demand: mackarel during the last season brought 50s. the barrel, herring from 20s. to 25s. per barrel, and cod 15s. per quintal in the Halifax market. Nor is this the only place which would take off the produce of the fishery: the British West Indies, and even the American ports, are open to an incalculable extent; while Spain, Portugal, and

Italy, to say nothing of the home trade, afford a never failing and ample demand.

"The following extract from a work of undoubted authority, '*British America*,' by John Macgregor, Esq., now Assistant Secretary of the Board of Trade, may convey some idea of the extent to which our acute and money-making republican neighbours carry on this trade.—'The Americans of the United States had, in the year 1829, about 500 vessels, and 15,000 men, employed on the coast of Labrador, and their catch amounted to 1,100,000 quintals of fish, and about 3,000 tons of oil—value altogether, about £610,000.' And in another part of the same work, under the head 'Newfoundland,' the author states, that 'in these fisheries the Americans have annually engaged from 1,500 to 2,000 schooners of 90 to 130 tons, employing about 20,000 seamen. The exports of cod-fish from the United States, wholly caught in the British-American seas, average nearly 500,000 quintals; and the home consumption of the Americans is equal to 1,850,000 quintals. Of the whole quantity, about 1,300,000 quintals are the produce of the British seas; the remainder is caught on their own shores. About 3,200 tons of oil are produced from the livers of the cod, and about 200 from pelts of seals, caught on the coast of British America.' There needs no more proof of the profits to be derived from this branch of industry—nor indeed can it be otherwise; the crews of the fishing vessels are all paid by shares of the produce, and the only outlay, after the purchase and outfit of the vessels, consists in the salt and barrels.

"Prince Edward's Island, from its position, and from the excellent harbours it possesses, offers the most desirable station for an extensive and profitable Fishery. The northern coast is the most frequented by herrings and gaspereaux, while the shallows and fishing boats find no difficulty in following the fish to the Magdalen Islands and the Labrador coast. The masters and crews having all a common interest with the owners, a spirit of enterprise and exertion is roused, which cannot fail to ensure success. It will be the part of the Association to supply the boats, nets, and the means of salting and drying the fish, and to receive for them a given proportion of the quantity caught, while they will provide a market for the whole.

"The failure of the herring fishery on the Western Coast of Scotland, and the very redundant population that has for several years existed in many of its districts, render some measure for the permanent relief of the poor inhabitants imperative; but if it be attempted to convert these hardy mariners into ploughmen or farmers' labourers, the result would probably be, as in one or two instances it has turned out, a complete failure, while to no other quarter can we so confidently look for a hardy and determined set of men, ready and willing to brave the seas and gulfs of these American coasts, and to pursue in another hemisphere their favourite and accustomed occupation, when circumstances have rendered it no longer available in their native land. Of their fitness for this

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employment no doubt can exist; and it must be admitted that the patience with which, for the last three winters, they have borne sufferings little short of famine and starvation, entitle them to the utmost consideration. On these grounds THE BRITISH-AMERICAN ASSOCIATION expect that all interested in the wellbeing of the poor, but more especially the Noblemen and Gentlemen of Scotland, will aid in this important branch of their undertaking; and they trust that the supervision which will be exercised over their operations by a large body of the ancient Scottish Nobility, who are closely connected with the North American provinces, will be a powerful guarantee that the interests, both of the emigrant and shareholder, will be carefully protected.

The first and principal fishing station will be established at or near Holland Bay, in Prince Edward's Island; a locality which affords every advantage requisite for such an undertaking,—from the abundance of fish, the ready access to the other spots they frequent, and the excellent harbourage, even for vessels drawing fourteen or fifteen feet of water. Preparations for the reception of the fishermen will be made by the previous dispatch of a sufficient number of agricultural labourers, and the necessary artificers, to whom most advantageous terms will be offered, and thus the agricultural capabilities of the district selected for the first operations of the Association, which it possesses in an eminent degree, will be efficiently developed, while the application of the most just and sound principles of colonization to both descriptions of settlers will ensure an adequate return to those who may be disposed to embark in an enterprise so well calculated to advance alike the interests of the nation and of individuals."

Alas! if the poor of this country have no better support to trust to than the "herrings and gaspereaux" provided for them by the BRITISH-AMERICAN ASSOCIATION, their plight is a sad one! It would be no unfit distribution of justice, were the means and estates of those who lent the *prestige* of their names to this abominable delusion, to be burdened with the amplest provision for all the "kith and kin" of the unfortunate victims who were led astray by this titled *glamourie*.

It was at first intended merely to reprint the trial, with the prospectus elucidatory thereof; but as every thing connected with this "mighty swindle" is worthy of preservation as a guidance for others, all notices and proceedings relating to it, so far as these can be obtained, are prefixed. This will account for the difference in the pagination.

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BRITISH-AMERICAN ASSOCIATION,

FOR EMIGRATION AND COLONIZATION.

Capital, £1,000,000, in £20 Shares.—Deposit £5 per Share.

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HIS GRACE THE DUKE OF ARGYLL.

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The Marquess of Bute.	Lord Duffus.
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The Earl of Dunmore.	Lord Kilmaine.
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The Earl of Gosford, G.C.B.	

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Canada.

C. R. Ogden, Esq., Attorney-General, East Canada.

J. H. Peters, Esq., Solicitor-General, Prince Edward's Island.

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& Co.

Messrs. Cockburn & Co.

Edinburgh.

Sir William Forbes & Co.

Glasgow.

The Union Bank of Scotland.

AGENT FOR GLASGOW—John Lamont, Esq., Buchanan Street.

SECRETARY.

W. H. Buckerfield, Esq.

OFFICES—29. *New Bridge Street, Blackfriars, London.*

THE object of the BRITISH-AMERICAN ASSOCIATION is to promote the Colonization of our North-American possessions, by a transfer of the surplus population of the United Kingdom upon a national scale; and by such an infusion of Capital into them, as shall lead to an immediate and wide development of their inexhaustible resources.

Our North American possessions present the most advantageous field for these operations, whether we consider their easy distance from the mother country, now abridged by the application of steam navigation—the fertility of their soil—the salubrity of their climate, and freedom from those occasional droughts which so seriously injure the Australian Colonist—or the still more important consideration of a long established trade, and of the settlers being placed in a comparatively civilized country, with all the benefits of British society and British laws.

The operations of the Association are intended to be commenced in several Seignories lying on the north bank of the

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St. Lawrence, about half-way between Quebec and Montreal, for the purchase of which agreements have been prepared. These tracts, comprehending nearly two hundred thousand acres, have been selected as being admirably adapted, from their geographical position, to form together the centre of the transactions of a great and powerful Association.

The Board of Commissioners will also acquire, either by grant or purchase, such Seignories and other lands as may be calculated to promote the interests of the Association, and be necessary for the location of the Emigrants placed under its care and protection.

The whole of the lands and properties progressively acquired will be administered by the Board of Commissioners, under the supervision of the Consulting Council. The improvements necessary to complete the Colonization of these lands will be effected or aided by the funds of the Association, and the lands will then be let or sold, and the income or profits divided periodically among the Shareholders.

The great distress into which a considerable portion of the population of Great Britain is now plunged, and particularly that of the western districts of Scotland, renders Emigration on a large scale almost imperative; the evidence taken before a Committee of the House of Commons, showing, that in a very limited district of the Hebrides, and adjoining mainland, there are no less than 44,600 persons requiring immediately to be removed to afford any perceptible relief. Nor is the condition of the poor much better in the neighbourhood of Glasgow, Paisley, and other manufacturing towns, where the hand-loom weavers have long been exposed, by the deprivation of employment arising from the improvements in machinery, to the extremity of distress. It is to these districts that the promoters of this Association have directed their first attention. They hope to alleviate the sufferings of a hardy, patient, and meritorious race, by removing them to a country where their labour will meet an abundant reward, and where, by that frugality and industry for which they have been always remarkable, they cannot fail to place themselves and their families in comparative affluence, without breaking that connecting tie between the landlord and his tenantry which

has hitherto formed the characteristic of the Scottish people. Nor will this change of abode be less beneficial to the nation at large than to themselves. Placed in a situation where their labour will be productive, they will become useful members of society, instead of a mere burthen on its resources; and they will, as their countrymen who have preceded them in the path of Emigration have done, prove, in time of need, the most able and zealous defenders of their country, and profitable consumers of the manufactures of the Parent State.

There is one feature in the constitution of this Association, as connected with Scotland, and with the interests of the Scottish Emigrant, too important to be passed over. The undertaking will be supported by an union with the Baronets of Scotland and Nova Scotia,—an Order originally created to further the settlement of British North America, by which its objects are closely interwoven with the interests of a large portion of the Scottish Nobility; and by the members of that Order assisting in its Councils, and conducting its management, a careful supervision is provided over all the interests, not only of the Shareholders, but more especially of the Emigrants confined to its care;—a supervision not ceasing with their landing in a new country, but continuing till they shall be located on their settlements, and providing for their future happiness and advantage.

The promoters of this national undertaking call on all interested in the well-being of the poor, but especially on the noblemen and gentlemen of the United Kingdom, to aid in this good work, the results of which are neither speculative nor problematical.

It will be the especial duty of the Commissioners to promote and receive voluntary contributions from the benevolent, to be applied, under the supervision of the Consulting Council, either in the location of poor Emigrants, on the nomination of the donor, or in the erection of Churches, Chapels, Hospitals, Schools, or other charitable foundation, in furtherance of religious worship and of education as he may direct.

The undertaking, combining the three great elements of wealth—Land, Population, and Industry sustained by Capital—obviously secures an ample pecuniary return; and, as an

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CONDITIONS.

1. The Capital of the Association, One Million, divided into Shares of £20 each; upon each of which a deposit of £5 per Share will be required at the time of subscribing; the balance to be called for by instalments not exceeding £5 each,—of which twenty-one days' notice shall be given.

2. The Commissioners, with the consent of the Consulting Council, have power to augment the Capital when required by the extended transactions of the Association, in which case the holders of Shares in the original Capital will have a pre-emption for the Shares in the new, before they be offered to the public.

3. The Commissioners have the power to form branches for distinct objects, in respect of which separate Shares will be issued.

4. The responsibility of each Shareholder limited to the amount of the Shares held by him, and every contract or agreement to contain a condition admitting such limitation.

5. The President, Vice-Presidents, and members of the Consulting Council, possess a deliberative power, and have a supervision of the affairs of the Association, for the protection of the Shareholders and Emigrants.

6. The Commissioners have the power to enforce the payment of the Calls, and to declare all Shares forfeited upon which a Call shall be in arrear for two months.

7. The operations of the Association to be commenced whenever, in the opinion of the Commissioners, a sufficient amount of Capital for the purpose shall have been raised or subscribed.

8. The Commissioners authorized, with the approbation of the Consulting Council, to issue Debentures, bearing interest, secured on all or any part of the lands of the Association, for sums not less than £25 each.

9. The Commissioners empowered to appoint Sub and Local Committees, either to superintend any particular branch, or for such other purposes and with such authority as shall from time to time be deemed necessary.

10. A Fund, to be raised by donations and voluntary contributions, whether to assist in removing any individual or particular body of Emigrants, for religious, educational, or other benevolent objects, shall be administered by the Commissioners, by and with the sanction of the Consulting Council.

11. A Court of the Association will be held quarterly, or oftener, if required; to be composed of the President, Vice-Presidents, the Consulting Council, and the Commissioners.

12. The Commissioners, subject to the supervision of the Consulting Council, have the conduct and management of the ordinary business of the Association.

13. The Consulting Council—including the President and Vice-Presidents—not to exceed 200 in number, and to consist, in addition to the Baronets of Scotland and Nova Scotia, of Peers and landed proprietors of the United Kingdom interested in Emigration; and vacancies occurring after the first five years to be filled up, at Meetings of the Shareholders, by parties qualified as Landed Proprietors, or as the holders of £1,000 in the Capital Stock of the Association, or of Debentures to the same amount charged thereon.

14. The Commissioners to be the owners of properties containing at least 10,000 acres, to be vested in the Association in furtherance of its objects,—the holders of at least £1000 Stock each in the Capital of the Association,—or have a mixed qualification of land and money.

15. No person qualifying for office, by Shares in the Capital Stock, to disqualify by the sale of his Shares, without first offering them to the Association.

16. Monthly Reports will be made by the Commissioners to the Consulting Council, and half-yearly Reports will likewise be made for the information of the Shareholders and others interested in the prosperity of the undertaking.

17. Each Shareholder to be entitled to one vote in respect of every five Shares held by him or her.

18. No Share to be transferred while any Call is in arrear, and, until one-half of the amount of each Share shall be paid, every transfer to be subject to the approbation of the Commissioners.

19. Articles of Agreement, for the regulation and management of the Association, are open to the inspection of the incoming Shareholders, and a Deed of Settlement is in preparation, which, when approved by the Commissioners and settled by Counsel, shall be binding upon all parties interested.

20. The Commissioners have power to apply for a Charter, or for an Act of Parliament, for the incorporation of the Association.

21. The Commissioners have the authority to make Bye-laws for the better government of the Association.

Applications for Shares and for Prospectuses to be made to the Secretaries, at the House of the Association, No. 29, New Bridge Street, Blackfriars, London, or to the Agents of the Establishment in their respective Districts.

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From "The Globe" of Monday, Oct. 24th 1842.

MANSION-HOUSE.—The Lord Mayor was engaged most part of Saturday in hearing summonses against a Mr. Duncan Campbell, of Adam's Court, Old Broad Street, relative to a proceeding in which an Association, styled "The British North-American Company," is implicated. The facts are as follows:—Mr. Campbell is the owner of the Barbadoes, of 240 tons burden, about to sail with emigrants to Prince Edward's Island, where the company is to divide 400,000 acres of land among them. A young man who had engaged himself as ship-carpenter, applied on Tuesday for a summons against Mr. Campbell for seventeen days' wages. He had agreed with the then captain to sail to any part of North America; but a new captain having been appointed who required him to sign an agreement to any part of the world, he left the vessel, and this application was the result. In the course of the same day some of the intending emigrants came to the Justice-room with complaints that they had been induced to throw up employment by promises of pay and fitting out by the company, of which they now saw no prospect; and these were followed by tradesmen who had supplied goods to the Barbadoes.

The Lord Mayor observed, that articles to sail to any part of the world were unheard of, and after some further remarks granted the summonses.

Mr. Campbell having appeared to answer the charges, and having stated that the Duke of Argyll, Sir Thomas Brown, and Sir James Ogilvie, Baronets, were among the Directors, the Lord Mayor pointed out that Sir Thomas Brown's name was not in the prospectus—it was printed Sir James; and, moreover, that the other Baronet was an infant. Asking who was now the captain, Mr. Campbell replied Captain Fricketts, who had just brought the Erin from China, which the Lord Mayor remarked was extraordinary, since the Erin had been lost in the Chinese seas!

Wilkinson, the officer, then said that the mate of the Barbadoes had desired him to state publicly that the whole transaction was a swindle.

In reply to a question, Mr. Campbell stated that he had insured the vessel for £3000.

The Lord Mayor made some very strong remarks relative to the names which had been put before the public as being Directors, after which he ordered the claim of the applicant to be paid. With regard to the tradesmen, they had made their claims a matter of debt. If those persons who had been foolish enough to agree to leave their native country upon such a speculation as that which had been put forth in the prospectus, would come on Monday and make their charges, he should know how to deal with their applications. He had no doubt the *exposé* would at least save them from going to a place where, on their arrival, they would be frozen to death.

(Thursday, April 20, 1843.)

In consequence of the advice given by Lieutenant Lean, the Government agent, Mr. Henry Fretwell, the captain of the Barbadoes brig, which some months ago left the port of London with emigrants for Prince Edward's Island, and Mr. Duncan Campbell, the owner of the vessel, were summoned before the Lord Mayor, at the Mansion-house, yesterday, to answer the complaints of several of the unfortunate persons who had broken up their establishments in this country, and engaged to go to that remote region in the Barbadoes, under the sanction of the British-American Association. The justice-room was densely crowded during the investigation, which lasted a great length of time.

Captain Fretwell, who was the first questioned by the Lord Mayor, manifested the most laudable desire from the commencement to give a full explanation as far as he was concerned. In answer to the questions put by his Lordship, he said that he had been engaged at Gravesend to take command of the vessel to Prince Edward's Island, and he sailed from the Downs on the 1st of November 1842, with fifty passengers (men, women, and children.) When the vessel reached 42° west longitude, she encountered heavy winds and seas, and was so dreadfully battered as to be obliged to put back to the nearest eligible port, which was Cork, a distance of about 1,300 miles. On the 22d of December she reached Cork, where she remained

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until the 9th of April, when she sailed for London, leaving behind her in Cork some of the emigrants, but bringing to London about thirty of them, who were at the present moment lodging and boarding in her in the London Docks.

The Lord Mayor having ascertained from the captain the nature of the damage sustained by the vessel, asked him what money he had received from the passengers.

Captain Fretwell replied that he had not received a farthing from any passenger, nor had he received a farthing of pay since he joined the vessel. He had caused all the repairs to be done to her in Cork.

The Lord Mayor—How was she provisioned?

Captain Fretwell stated that no reasonable complaint could be made as to the provisions, which were abundant and unexceptionable. The repairs, however, went on very slowly, for the agents in Cork began to suspect that they could not easily procure remuneration for their outlay. The British-American Association, in the meantime, sent to him to state that the vessel must sail on the 20th of March, and he made every preparation in his power, when he received an intimation that she was not to proceed. He paid off the ship's company at Cork, and consequently had on board only the mate, the steward, the emigrants, and himself. The emigrants never expressed the slightest dissatisfaction at his conduct; on the contrary, they were convinced he had done all he could for their service; but they felt and expressed bitter disappointment at the manner in which they had been treated by the Association, and those who acted for that body.

The Lord Mayor—Did you expect that you would reach Prince Edward's Island at that season?

Captain Fretwell—I am sure that if we had not met such severe weather (for there have not been such heavy gales on the coast of America these ten years), we should have made the passage. We were sufficiently manned, and had everything of the best quality. I have been often to St. John's in New Brunswick, and to Miramichi, and I know we should have succeeded. When we were on the edge of the banks of Newfoundland, we all agreed, in consequence of the necessity of the case, to bear for a lee port; and after consulting with

the superintendent of the emigrants, and with the emigrants themselves, all of whose protests I received, we acted accordingly.

The Lord Mayor—You understood the nature of the voyage you were going. Was it not a very late one?

Captain Fretwell—It was late for the emigrants; but I have no doubt it would have been effected if the weather had not been so bad. We arrived in London on Sunday last, and the vessel is now in the London Docks, and the emigrants are in her. I have done nothing with them, and I do not consider myself any longer in command.

The Lord Mayor—And who is in possession of the vessel?

Captain Fretwell—Mr. Soames, who has a mortgage upon her, has put in a ship-keeper.

The Lord Mayor—The summons handed in states that you unlawfully attempted to force these emigrants to leave your ship.

Captain Fretwell—I never contemplated anything of the kind. I have no power whatever in the ship. I have paid off the runners I hired in the Cove of Cork, where I discharged the able crew I had to go the voyage.

The Lord Mayor—You have answered my inquiry in the most candid and straightforward way, and there is no charge whatever established to your prejudice. But what are these poor men and their families to do, who have calculated on the allotment of land, and thrown up their situations in this country in the hope of bettering their condition?

Lieutenant Lean, the Government agent, said he had heard the emigrants speak in the highest terms of the conduct of Captain Fretwell.

The Lord Mayor then questioned Mr. Duncan Campbell at considerable length.

Mr. Campbell stated, in answer to his Lordship, that he was sole owner of the Barbadoes, subject to a mortgage to Mr. Soames of £375.

The Lord Mayor—Who were the persons who engaged her to take out the emigrants?

Mr. Campbell—The principal managers of the British-American Association—Sir Richard Brown, Sir William

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Ogilvie, and Dr. Rolfe. The ship was chartered by me to these three Commissioners to take out emigrants to Prince Edward's Island, all most respectable men, but not very rich of course. (*A laugh.*) They engaged him to provide the emigrants at £8 per man, and half-price for children, with food and passage out. He provided the ship by a contract with Messrs. Leslie & Smith, the extensive provision-merchants, with meat, bread, flour, &c., at £2:10s. per head. Everything that was required for the voyage was, according to the act of Parliament, most abundantly supplied. The cargo, which was valuable, was bought upon credit; but now the Association is broken up altogether, and I have never received a farthing; I have lost the ship and everything else.

The Lord Mayor—I find in this printed paper a number of great names, the appearance of which was calculated to induce people to believe that the Association was a *bona fide* one. There are attached the names of a Duke, fifteen Lords, and nearly forty Baronets. You are amongst the Commissioners, and the emigrants complain that you have not performed your contract.

Mr. Campbell—It was impossible for me to perform it. The Association is completely broken up. There have been several executions put into the house in Bridge Street; and owing to what passed at the Mansion-house in October last, the Duke of Argyll, the president of the Society, has resigned. There are actions at this moment going on against the Duke of Argyll, the Marquis of Downshire, and Sir James Cockburn.

The Lord Mayor—This paper contains a list of first-rate names.

Mr. Campbell—Yes, but they are broken up altogether.

The Lord Mayor—The Association may be broken up, but these noblemen and gentlemen are not broken up. Are all these shareholders?

Mr. Campbell—No, they are only the Vice-Presidents and Consulting Council.

The Lord Mayor—How much of the million capital has been paid up?

Mr. Campbell—none at all. (*Laughter.*) Nobody paid up at all.

The Lord Mayor—Now, as you are a Director, you can let me know what the plan was with respect to these emigrants if you had got them out to Prince Edward's Island.

Mr. Campbell—Twenty houses had been prepared by the Association to receive them, and they were afterwards to be located there by our agent, Mr. Goodman junior, a gentleman on whose talents and qualifications we have the utmost reliance.

The Lord Mayor—And what was then to become of them?

Mr. Campbell—They were to build more houses, and work in other ways, and then to be regularly located.

The Lord Mayor—And how were they to be subsisted?

Mr. Campbell—There was a month's extra provision going out, so that they would be provided for a month after landing.

The Lord Mayor—And then take their chance of starvation? That is certainly a frightful alternative. These poor men have been deceived by the long list of high names, and are now thrown into the most serious difficulties.

Mr. Campbell—I have been deceived myself most egregiously. As to the month's extra provision, the general practice is to give extra provision for only a few days after arrival. The Association in this adopted a most liberal plan.

The Lord Mayor—Why, emigrants under such circumstances may die through sheer starvation.

Mr. Campbell—So they may. (*Laughter.*) Emigrants are not taken out to their destination on such liberal terms. The vessel was singularly unfortunate. The voyage is one of six weeks. If she had been a fortnight later, she would, I entertain no doubt, have made the voyage.

Mr. George Henley and Mr. Taylor, two of the emigrants, and very intelligent men, here stood forward. They stated their great object in bringing the case before the Lord Mayor to be, to ascertain upon whom the serious responsibility to them could be fixed.

The Lord Mayor—Have either of you paid money for the voyage? Mr. Taylor said he had paid £50 for himself and his family of eight children, to the Secretary to the Association.

Mr. Henley stated that he was introduced by the British Association to Mr. Halden, whom they acknowledged as their agent, and he engaged to pay thirty guineas for his passage, &c. by instalments, in the Island.

The Lord Mayor—What dreadful mischief arises from the use of high names in cases of this kind! I have no doubt that the noblemen and gentlemen whose names appear in this paper were wholly ignorant of the nature of the proceeding to which it might appear they lent their sanction.

Mr. Taylor said he had seen in a newspaper an account of a meeting in Scotland, which had been attended by some of the most respectable individuals, representing the plan of emigration, and the advantages with which it abounded; and he was deceived into the belief that the whole was dictated by the most honourable feelings. Under these circumstances, he determined to go to Prince Edward's Island, and made his arrangements accordingly. He had suffered both mentally and physically in an extreme degree. The case of all the emigrants was now becoming desperate. He was given to understand that it was the intention of the mortgagee to sell the ship and cargo, and to turn the emigrants, who had not one farthing in their possession, completely adrift. A representation had been made to the Magistrates in Cork on the subject, and those gentlemen were of opinion that the owner was as liable as he would be in the case of a seaman's wages.

The Lord Mayor—There is no man more respectable or humane than Mr. Soames, so that you may rely upon it that he will do you justice.

Mr. Campbell said that Messrs. Leslie & Smith also had a mortgage on the vessel. He did not think the emigrants ought to make any complaint until they were dispossessed of their asylum on board the vessel in which they were at present supported.

The Lord Mayor—What! not complain when they are threatened with being thrown upon the streets to starve, or to hurry in a crowd to the workhouse? It is quite absurd to talk in such a manner.

Lieutenant Lean said it was officially announced to him on Tuesday that the provisions would be stopped, and no doubt the emigrants would be obliged to leave the vessel.

The Lord Mayor—I cannot, looking over this prospectus, conceive it possible that any of these individuals would suffer these poor emigrants to be imposed upon.

Mr. Campbell—How comes it then, my Lord, that they have done so?

The Lord Mayor—I daresay that some of these noblemen have, under the impression that the Association was calculated to do good, allowed their names, from a benevolent feeling alone, to be used. I am convinced that not one of them ever dreamt that a number of poor emigrants would be sent out to an isolated spot with a month's provisions, to run the chances of climate and the various contingencies to which persons in a country unknown to them must be subjected.

It was here stated that the Duke of Argyll took the lead at all the public meetings, and made no secret of attaching his high name to the acts of the Association, and that his Grace's correspondence with the late Lord Mayor clearly proved that fact.

Sir John Pirie, who entered towards the conclusion of the investigation, said that the vessel was originally mortgaged to Mr. Soames, and that it was now mortgaged to Messrs. Leslie & Smith, who, he had not a doubt, would sell the ship at once. Indeed, he had had the information from these gentlemen themselves. He did not think the ship was by any means accountable in this case between the emigrants and the Association.

The Lord Mayor—I am of a different opinion; I think these poor men have a legal claim upon the ship, and that the ship cannot be taken away without fulfilment of the contract; if it were otherwise, the most dangerous and extensive frauds might be committed upon that pretext. This is a case in which I would advise you by all means to have legal advice.

Mr. Taylor—I am reduced to pauperism with my large family, and cannot afford to employ a lawyer. I have not only lost my passage money, but I have been obliged to expend the money I had put together to apply to the purposes of labour, in the cultivation of the land I expected to have held.

The Lord Mayor—I shall persevere in this inquiry to render you as much service as I can. Pray, Mr. Campbell, how many shares did these nobleman and baronets take?

Mr. Campbell—None at all. (*Laughter.*) The Duke of Argyll and Sir James Cockburn were the only two out of the

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whole list who signed their names for shares. They signed for shares to the amount of £500 each.

The Lord Mayor—And with this £1000 you start the Association? Mr. Campbell—It was started long before I had anything to do with it.

Mr. Henley requested that the Lord Mayor would postpone the case for a few days, in order that the attendance of the Secretary and a Mr. Andrews might be procured, and also that Mr. Campbell might be called upon to produce his books, which might explain the case more fully.

Mr. Campbell objected to produce his books, and said he would not allow any one to overhaul them.

The Lord Mayor—I shall postpone the case, certainly, and I hope that some satisfaction may be obtained. I am decidedly of opinion that you have a claim upon the ship, and that she is bound to leave you at the place of your original destination. I suppose you would still go to Prince Edward's Island, Mr. Taylor?

Mr. Taylor—I should not wish to go without coming to a more clear understanding as to the power of the Association. I understand they have not an acre of land in Prince Edward's Island.

The Lord Mayor—What! no land there? Is that the case, Mr. Campbell?

Mr. Campbell—Not a single acre, my Lord. (*Great laughter.*)

Mr. Henley—They bargained to sell me 150 acres. (*Laughter.*)

The Lord Mayor—It is quite impossible that any of these individuals whose names have been used in this list, could have known of all this; why, it is a most decided and heartless fraud. I would send the concocters of it to Prince Edward's Island, with a month's provisions. I consider the emigrants the dupes of a conspiracy.

Mr. Campbell—My Lord, I know nothing of these things; I have found them out to my heavy cost. I have lost my vessel and money, and there are twenty actions against me.

The Lord Mayor then directed that all the parties should appear before him in a few days.

(Friday, April 21, 1843.)

MANSION-HOUSE.—THE BRITISH-AMERICAN ASSOCIATION.

—Dr. Rolph, who was alluded to in the affair connected with the British-American Emigration and Colonization Association, before the Lord Mayor on Wednesday, appeared at the justice-room yesterday, while Alderman Gibbs was sitting, and was very anxious to deny the correctness of the statement made by Mr. Duncan Campbell, that "the ship was chartered by the three commissioners, Sir R. Broun, Sir W. Ogilvie, and Dr. Rolph."

Alderman Gibbs said the Lord Mayor intended to enter into the merits of the case on a future day; and intimated to Dr. Rolph that it would be the better course to correct any inaccuracy in the presence of his Lordship.

Dr. Rolph said he feared he might not be able to attend when the Lord Mayor meant to pursue the investigation, as he expected to be obliged to attend elsewhere, in consequence of circumstances arising out of the British-American Association.

Alderman Gibbs—Where do you expect to be obliged to attend relative to the Association?

Dr. Rolph—At the Bankruptcy Court.

Alderman Gibbs repeated that it would be advisable in Dr. Rolph to attend before the Lord Mayor, who would willingly afford any opportunity of correcting inaccuracies, if any arose, in the course of the examination which had already taken place.

Dr. Rolph said if it was possible he should be in attendance. He, at the same time, was most desirous that what he had to say should, as soon as possible, appear before the public by means of those channels of communication through which the misrepresentation had been made. He then said he denied that he was one of the three commissioners who chartered the ship Barbadoes for Prince Edward's Island, and he asserted that Mr. Campbell was the third commissioner who had acted with Sir William Ogilvie and Sir R. Broun in that transaction; and that the whole arrangement connected with that vessel, and the deportation of emigrants to Prince Edward's

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Island, was planned and entered into during his (Dr. Rolph's) absence from England, and had met with his most unqualified reprobation and protest immediately upon his return to this country. He assured the Alderman that, so great was his objection to the late departure of emigrants to North America, he had prevented a large number from leaving Belfast for Canada, even in the month of July. Connected as he was with the government of Canada, he hoped, that in justice to him, the impression that he had sanctioned the course adopted would be removed.

A person who said he had a complaint to make against the Association, but was desired by Alderman Gibbs to postpone it until the Lord Mayor should be ready to attend to it, produced a printed paper, which appeared to be a promissory-note for £100, and was signed with the names R. Broun, W. Ogilvie, and D. Campbell, as commissioners to the British-American Association.

Alderman Gibbs said the name of Mr. Campbell was plain enough upon the instrument produced, to which Dr. Rolph's name certainly was not attached.

Dr. Rolph—I was in Canada the time the vessel was chartered.

The person who appeared to complain against the Association said he believed that Dr. Rolph was absent from England at the time the vessel was chartered. He stated that he was most anxious to meet Mr. Campbell, who had done so much to throw the blame off his own shoulders, at the same time that he was deeply involved and responsible in the whole of the transaction.

(Saturday, April 22, 1843.)

THE BRITISH-AMERICAN EMIGRATION AND COLONIZATION ASSOCIATION is again before the public. As is usual at the bursting of a bubble company, by the fraudulent practices of which numerous dupes are ruined, the parties implicated in this deceptious scheme seek to escape from the consequences of their conduct by shifting the responsibility from their own to the shoulders of others. Hence we have one day Mr. Campbell, another day Dr. Rolph, and another the solicitors

of his Grace of Argyll, appearing at the Mansion-house to assure the presiding magistrate that they deeply sympathize with the sufferers, but that, on whomsoever the blame may fall, they are blameless.

Our readers will remember, that in October last this Association for conveying emigrants to Prince Edward's Island occupied a considerable portion of public attention. Sir John Pirie, then Lord Mayor, was appealed to by certain tradesmen who had supplied stores for the vessel in which the emigrants were to be conveyed to their proposed destination, and who found themselves unable to obtain payment for their goods, in pursuance of the contract. Some of the passengers also began to be uneasy. Circumstances, by no means such as to strengthen their confidence in the emigration scheme in which they had been induced to embark their all, transpired daily, and led them to apprehend that they had been gulled into parting with their money to a set of adventurers who had no means of fulfilling the hopes they had raised, or the specific engagements into which they had entered. Sir John Pirie, whose position as an extensive shipowner peculiarly fitted him for the investigation, devoted himself with commendable diligence to sifting the facts brought before him, expressed himself in pretty strong terms upon the character of the high-sounding pretensions of the Association and its projectors, and warned the persons who contemplated expatriating themselves under its auspices, of what they were likely to encounter if they persisted in their intention. We lent our aid to analyze the scheme, and to demonstrate its iniquity; we denounced the impudent and heartless fraud upon a large number of poor creatures who had drained their resources to the last shilling to raise the stipulated sums demanded by the cormorant "commissioners,"—so the managers of the concern pompously designated themselves in their prospectus,—as the price of the benefits they engaged to confer. The "good ship *Barbadoes*" was chartered to these "commissioners" for the purpose of transporting the emigrants to the *El Dorado* of their imaginations, but had been detained, by various untoward events, for several weeks. At length the vessel sailed, towards the close of November, for Prince Edward's Island.

The result which the experience of Sir John Pirie enabled him to predict, as the probable consequence of such a voyage at such a season of the year, has followed. When the vessel had got about half way across the Atlantic, according to the statement given by the captain, she encountered heavy winds and seas, and was so dreadfully battered as to be obliged to put back to the nearest eligible port. This port was Cork. There she remained more than three months. The repairs, rendered necessary by the injuries she had sustained, proceeded very slowly, and under frequent interruptions, from the captain's lack of money and credit. The emigrants continued on board all this time. The provisions laid in for the voyage were consumed. At length, at the beginning of the present month, the captain was directed to sail,—not for Prince Edward's Island, but to the place whence he originally went forth. He was ordered by the "commissioners" to return to London. The commissioners were now as desirous of scattering, as they were last autumn desirous of collecting their dupes.

This brought the concern, its "commissioners," and some other high and mighty personages, whose names had figured in its previous exhibitions, again before the Lord Mayor. Some of the poor, ruined dupes of the flagrant imposition appeared at the Mansion-House on Wednesday, to state their cases, and those of their companions in misfortune. A Mr. Campbell, one of the directors and "commissioners" of the company, and who chartered the vessel for the voyage to his brother commissioners, appeared to explain the case, so as to excuse himself and implicate others. In the course of the explanation given by Mr. Campbell, it appeared from his statement that he had mortgaged the vessel,—that the mortgagee was in possession, having seized the vessel, and was about to proceed to sale,—and that although he (Mr. C.) was a director and commissioner, chartering his vessel to his co-directors and commissioners, he never received any money for the undertaking! If Mr. Campbell is to be credited, it would appear that he was duped—the instrument of adventurers more clever than himself. He tells the public he is ruined by the scheme.

That Mr. Campbell knew the whole concern was a bubble,

is evident from his own account to the Lord Mayor. From that account it is evident that the Association *was based in dishonesty and fraud*. Not a single pound of the "one million" capital paraded in the prospectus was ever paid up! To the prospectus of this combination for obtaining money under false pretences,—and we shall establish the right of the Association to be thus stigmatized,—there were appended the names of a Duke, fifteen Peers (Scotch), and forty ditto Baronets; all having various parts assigned them in the scheme, that full effect might be given by the display. That so large a portion of the rank and dignity of the kingdom should have consented to interest themselves so deeply in the public welfare, was the subject not only of surprise but of praise! Who can wonder if the scheme succeeded to an extent that surpassed the utmost hopes of its projectors? The Duke of Argyll was at its head; and its tail consisted of numerous joints worthy of a head so eminent. Yet of the long list of Lords and Baronets, with a Duke at their head, *not one*, as it now appears, ever paid a bawbee—the Duke of Argyll and Sir James Cockburn alone, of the entire batch, having even consented to take shares in the concern. "These two," said Mr. Campbell, "signed their names for shares to the amount of £500 each." Confiding in the integrity and stability of the high names attached to their prospectus, several poor persons were induced to become emigrants; and the "commissioners" of the Association undertook to sell them large tracts of land in Prince Edward's Island. And this contract they entered into, well knowing that the Association had not a single perch of land in the whole Island! Were we not justified in designing the Association "a confederacy for obtaining money under false pretences"? That the poor victims to this base conspiracy have abundant cause for thankfulness, we think is evident. They were driven back to their own country by winds and waves less merciless than the heartless speculators who would have consigned them to starvation. Here they will have, let the worst happen that may, a refuge in the poor-house. In that last resource for the destitute, themselves, their wives and their little ones, will be preserved from the dire death which awaited them in the desolate and inclement island on

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Dr. Rolph, one of the "commissioners," appeared on Thursday at the Mansion-house, and sought to clear himself from having sanctioned the sailing of the vessel. The Doctor's present account scarcely tallies with his speeches delivered in justification of the Association, and in support of its claims to confidence, delivered after the exposure of the concern in October last. Perhaps the investigation in the Bankruptcy Court, to which the Doctor alluded as likely to prevent his attendance before the Lord Mayor, when the merits of the case will be farther ascertained, will elicit further disclosures, both as to the doings of the Association, and the persons actually implicated in its transactions.

Yesterday the Duke of Argyll's solicitors attended at the Mansion-house, and presented to the Lord Mayor a letter, written for the purpose of stating his Grace's real position with reference to this Association, and explaining the way in which the Duke and Sir James Cockburn were induced to embark their names in the concern. Of this letter we will only say, that it is not quite consistent with his Grace's own letter to the late Lord Mayor, in which admissions were made, and explanations given as to the objects contemplated by the noble Duke in embarking in this emigration scheme; which, coming immediately from himself, the public will be disposed to credit. A letter also appears this morning in the columns of a contemporary journal, from a poor tradesman, who was induced to supply goods to the order of the Association, to the amount of several hundred pounds, on the faith of the

high names which appeared in its prospectus. He is now in prison for debt, ruined by the loss he has in consequence sustained.

We adhere to the opinion we expressed when the affairs of this company were last year before the public. We consider that the Duke of Argyll, and every other individual whose name was affixed—with his own knowledge of its being so—to the delusive prospectus, are bound by humanity and justice to indemnify the sufferers by the failure of the scheme to which they gave the sanction of their names. We had hoped that a due sense of what the Duke of Argyll owes to society would have induced his Grace, and every other individual who was induced to give his sanction to the scheme, to have voluntarily paid the penalty of his folly. By not doing so, the public may be induced to suspect that it was something worse than error of judgment which brought their names into such a connection. We also went further; and have seen no reason to retract the opinion we then expressed. We believe that his Grace the Duke of Argyll and Sir James Cockburn, by the act of signing their names for shares to the amount of £500, rendered themselves responsible in law for the parties with whom the managers of the Association contracted for the purposes we have described, and who have so grievously suffered by their confidence in the names which they saw appended to the prospectus. If Dukes and Lords lend their names to bubble companies, and thus give a semblance of stability they could not otherwise obtain, surely they ought to be held liable to *bonâ fide* contractors with such companies, as they would be if they indorsed bills, and those bills passed into the hands of parties who have given *bonâ fide* consideration in exchange for them. Or if they allow themselves to be represented as partners in a scheme for transmitting emigrants to a given place, and fail in fulfilling contracts which the company to which they belong has made with other parties; ought they not to be held liable to the sufferers by the breach? It is really painful to have to appeal to the power which the law possesses to enforce such contracts, when a noble of the highest rank is the party concerned. We should have been too well satisfied to have left the question to be settled by that sense of honourable obligation which ought to

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be associated with nobility. We trust, however, the law will supply what may be lacking in the Duke of Argyll's sense of honourable obligation to the poor dupes to a scheme which was launched and was for a time kept afloat by the sustaining power of his Grace's name.

(Monday, April 24, 1843.)

BRITISH-AMERICAN ASSOCIATION.—The recent *exposé* of the proceedings of this Association would appear to have induced the heads of the department to emigrate in *propria personâ*. On Saturday the offices in Bridge Street, Blackfriars, were shut up, the zinc door-plates removed, the house advertised for sale by Messrs. Toplis, without even the customary notice being given as to where the company intended to carry on operations for the future.

(Tuesday, April 25, 1843.)

The British-American Emigration and Colonization scheme having figured in police reports and bankruptcy proceedings, was last night introduced to the notice of Parliament. In the House of Commons the Lord Mayor drew the attention of Lord Stanley, as Colonial Minister, to the case of the poor emigrants who were induced to embark for Prince Edward's Island, by the specious prospects held out by this Association, and by the supposed security afforded by the names of the Dukes, Marquises, Lords, and Baronets, which were affixed to its prospectus, as vouchers for its integrity and stability. The answer of Lord Stanley, in reply to the inquiry made by the Lord Mayor, went to exonerate the Government from all suspicion of having neglected its duty in the matter. The Emigration Commissioners instructed Lieutenant Lean, their agent in the port of London, to institute the most searching inquiries into the condition of the vessel, and into the quality and quantity of the provisions laid in for the emigrants on board the *Barbadoes*. Remonstrances and warnings were used with the Association as to the danger of undertaking the voyage at such a season. The emigrants were also cautioned by the Government agent against embarking on a voyage so pregnant with danger. These remonstrances and warnings

were vain. The company were too anxious to get rid of the inconveniences which the alarmed apprehensions of the emigrants were continually bringing upon their scheme, to allow the vessel to remain an hour longer than possible; and the poor creatures who had embarked their all in the vessel, derived courage from despair, and resolved on braving all dangers, rather than allow the vessel to depart, and leave them and their families homeless and destitute. The subsequent adventures of the vessel and its passengers—the dangers they encountered in the Atlantic—their arrival in Cork—their detention in that port—and their subsequent return to London, with the seizure of the vessel by the mortgagee, and the consequent further development of the impudent and heartless frauds perpetrated by the managers of this Association—are familiar to the public by means of the published reports of the investigations, which the Lord Mayor, after the example of his predecessor, has instituted into the proceedings of this bubble scheme.

Lord Stanley's concluding remarks were conceived in a proper spirit of indignation against the perpetrators of the fraud; and were expressed in terms, the pungency of which will, we trust, cause them to be felt by certain parties who have aided the fraud by their names, but have shown a most criminal disinclination to make reparation to the sufferers. Having alluded to the possible failure of legal remedies against the solvent parties, through the technical difficulties which surround the case, and under which they might, possibly, screen themselves, Lord Stanley continued—"But whilst he said this, he could not forbear giving expression to his earnest and confident hope, that as this company was established apparently under the sanction of high and honourable names—even though there might be no legal obligation—even though those parties had themselves been deceived—even though they were not aware that this pretended company was but a bubble from its commencement—yet that those high personages would nevertheless feel themselves morally, if not legally, bound to do something towards remedying the great and grievous hardship to which the sanction of their high names and characters had doubtless exposed many unsuspecting people; that they would

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feel it an obligation and a duty to make such compensation as was in their power for the distress they had occasioned."

The House loudly responded to these appropriate and strongly-expressive allusions to the "high personages," and the "moral obligations" they had incurred. We devoutly hope they will be felt in the quarters to which they were directed, and that they will produce the effects designed. Surely the Duke of Argyll especially—even though all the others be insensible to the appeal—will not allow his name and dignity to be sullied by the imputations which such a transaction will cast upon it if he allow the victims of the fraud perpetrated under cover of his *permitted* employment of that name and title to be unredressed; especially seeing that they involve absolute ruin to many who showed their confidence in his honour by embarking their all under the fancied security his name afforded them.

(Friday, May 19, 1843.)

COURT OF BANKRUPTCY, MAY 18.

THE BRITISH-AMERICAN ASSOCIATION *in re* ROLPH.

THIS day was fixed for the examination of his Grace the Duke of Argyll, Sir James Cockburn, and other highly respectable and influential personages, touching their relationship to the bankrupt, as Secretary of the above Association, which has for some time past occupied no ordinary portion of public attention.

Mr. Bagshaw and Mr. E. James attended for his Grace and Sir J. Cockburn, and Mr. Laurence for Mr. Leslie.

Mr. Laurence said he proposed to examine the Duke of Argyll, and other persons, in order to relieve the bankrupt's estate; for it was quite clear that if a partnership existed between the bankrupt and the noble and other honourable persons, whose names were held forth to the world as being equally embarked in the British-American Colonial Association, then it was quite clear that his client must come and claim

upon the solvent estate, before he would be permitted to do so upon the insolvent estate of the bankrupt.

Mr. E. James said, that in his opinion this examination was not intended for its professed object. It would be now his duty to read a letter or two from Mr. Leslie, and his agent, to show the object Mr. Leslie had really in view. The first letter was dated the 4th of April 1843, and purported to have been written from 17 St. Dunstan's Hill. It was as follows:—

“ My Lord Duke— It is with great reluctance that I feel myself compelled to address your Grace on the painful subject of the British-American Association, but being a large creditor, to the amount of £1600, for goods and moneys advanced to the Commissioners appointed under your Grace's presidency for carrying out the objects of the Association, I have now no alternative but to hold you, and all others who allowed their names to go forth to the public in the printed prospectus, responsible for the acts of the Commissioners. The law in such cases is so clear, and the precedents so numerous and so strong, that before allowing my solicitor to take steps here, and my Edinburgh lawyer (who is now in town) to take steps simultaneously, by arresting your rents in Scotland, I have to solicit an interview with your Grace, to know if you feel disposed to meet the case fairly. I believe your own solicitors were the first to establish the law in similar cases, by the famous one of *Vignolle v. Lefroy*: and it does seem strange that they should persist in holding out that you are not liable in the face of such strong evidence to the contrary. It is true, you have been most unfortunate in the selection of the parties in whom you stated you had full confidence. Had I known them at first as well as I do now, I should have shrunk from having any connexion with them; but as it is, I must take the only course left open for me. In the hope of hearing from your Grace, that you will give me an opportunity of talking over the matter, and as soon as possible, it may lead to a speedy and amicable settlement with all parties, and put a stop to expensive and harassing litigation. There was a meeting of upwards of twenty creditors here last week, all of whom, I have reason to believe, would come into such terms as I might recommend; and really the whole of the matter is in a ‘nut-shell’ after all.—I have the honour to be, my Lord, your Grace's obedient humble servant,

“ ARCHIBALD LESLIE.”

“ *His Grace the Duke of Argyll, &c.*”

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uncle, and I am consequently cousin-german to your neighbour, Lady Janet Buchanan, to whom I gave Dr. Rolph an introduction on his last visit to Inverary, your Grace may perhaps be inclined to give me credit for seeking this interview, in the capacity of a fellow-victim as much as anything else."

The learned Counsel continued:—This letter gave ample evidence of Mr. Leslie's object and intentions, and he would now proceed to read an extract from a letter addressed to Major Campbell by Mr. Ross, or Mr. Roy, which would at once raise the question whether this business was not actually a conspiracy against his Grace:—

"The Duke of Argyll's position will instantly be harassing to him, and costly beyond conception. The creditors of the American Association put Dr. Rolph into the *Gazette* on Saturday, for the purpose of enabling them to get a warrant for bringing up the Duke, and another for public examination before the Court of Bankruptcy—the most disgusting of bear-gardens. He is open to questions from the bankrupt, and any creditor and the Court, and his evidence, taken down, forms complete evidence against himself.

"The creditors are about thirty, to the amount of about £8000. Besides them, a Mr. Bruce sold the Company lands, and he is in debt; and his creditors, to the extent of £5000, are on the alert.

"One creditor, a Mr. Leslie, wrote the Duke, and I saw the answer from the Duke's solicitors yesterday. It actually says merely that the Duke disapproved of the proceedings, and protested. Does that cease to make him a partner, or relieve him from responsibility? Does it not imply an admission that he was a partner? It is infatuation to allow this to go on. He subscribed the share list for 500 shares for himself, and so many for the Marquis of Lorne, and read and returned the inclosed minute (*viz.* the proceedings of the meeting held in London on the 8th of June 1842), as preses observe, in page 5, 'where the purchases are mentioned and approved, and thanks voted for them.' As soon as the Duke, at his public examination, admits having taken shares, he is himself exposed to have a fiat of bankruptcy issued against him, and I cannot see how it can be escaped from. I am told his solicitors are very young men, and that the expense of the defence against so many as thirty suits will be very great. But I do not know them, and those sort of things are often said unfairly.

"I yesterday persuaded Mr. Leslie to write an apology to the Duke for an unintentional expression in his letter which had offended the Duke; but it seems there is some advantage expected to be gained over the Duke (although I can't see where it is), by keeping him unaware of the object of Dr. Rolph's bankruptcy, and so the solicitor prevented Leslie from sending it. I am quite certain that an intelligent unprofessional friend would get the matter settled before it goes further."

Mr. Laurence (with considerable emphasis)—I most indignantly disclaim any knowledge of that letter on my own behalf or that of my client. If that letter were written to his Grace by Mr. Roy for him (Mr. Leslie), I would at once give up the case.

Mr. Leslie, examined by Mr. James—I am the petitioning creditor in this bankruptcy. The fiat is dated the 6th of April. I know Mr. Robert Roy,* who is the party I alluded to in the letter of the 4th of April, but he never did any business for me. He was in London when I wrote that letter, but I was not in communication with him. I did not know, until I heard to-day the letter read, that he had written it to his Grace. I was shown in the minute-book a list of Directors, with their signatures, and the number of shares they held. The list of names contained those of Lord Lorne, Duke of Argyll, Sir James Cockburn, and others. It was entirely on the faith of these signatures that credit was given to the Association to the extent to which we went.

Mr. Commissioner Holroyd—It appears to me that, taking into consideration the whole of these facts as disclosed in this case, I cannot refuse to enter into the proposed examination.

Mr. Bagshaw, at this stage of the proceedings, suggested that no further inquiry should take place until Mr. Roy was before the Court, in order to furnish the Court with some explanation of the letter, and by whose authority it was written to Major Campbell. This arrangement was agreed to, upon the understanding that his Grace and Sir J. Cockburn should be in attendance at the next adjourned meeting. Adjourned accordingly.

* This is the notorious Mr. Roy of *Dundonnell Cause* celebrity, and who figured in the suit at the instance of *Miss Hope versus Captain Donaldson Boswall, of Wardie*.

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(Monday, May 29, 1853.)

MANSION-HOUSE.—The unfortunate persons who were to have emigrated to Prince Edward's Island, in the ship *Barbadoes*, appeared before the Lord Mayor for the purpose of receiving their respective shares of the subscription raised in their behalf by the exertions of his Lordship and Lieutenant Lean, the Agent to her Majesty's Commissioners of Emigration. Lieutenant Lean was present at the distribution of the money collected, which amounted to £225. The number of persons among whom it was divided, was fifty, including men, women, and children. Mr. Taylor, who so ably represented the body of emigrants when their case was first represented to the Lord Mayor, stated that they were every one perfectly satisfied, as the money was a donation, it could not be divided in any other way than in equal shares, and quite independently of the greater claims which some had than others.

The Lord Mayor—I had hoped that the contributions would have been more, and I regret that the truly affecting statements which have been made by the press have not had a more general effect.

Lieutenant Lean then proceeded to state the particulars of the subscription, viz. The Duke of Argyll £50, the Marquis of Downshire £30, Sir James Cockburn £25, Lord Scarsdale £50, the Marquis of Bute £10, Sir W. Maxwell £10. A gentleman, whose name he was not at liberty to mention, had benevolently sent £50 for the aid of the ill-treated emigrants. Mr. Taylor then said it would of course be understood that the emigrants were not, by the receipt of this donation, to be precluded from taking legal proceedings for the purpose of claiming remuneration for the injuries and losses they had sustained.

The Lord Mayor said by no means. The Duke of Argyll and the Marquis of Downshire, he knew, were anxious that every satisfaction should be given them.

The emigrants, after thanking his Lordship for the interest he had taken in their misfortunes, and the assistance he had afforded them, most respectfully withdrew.

(Tuesday, May 30, 1843.)

COURT OF BANKRUPTCY, MAY 29.

(Before Mr. Commissioner Holroyd.)

THE BRITISH-AMERICAN COLONIZATION ASSOCIATION,

In Re ROLPH.

THIS day was appointed for the purpose of hearing further arguments as to the propriety of entering upon the examination of his Grace the Duke of Argyll, Sir James Cockburn, and other noble and influential personages connected with the late British-American Colonization Association, as the alleged copartners of the bankrupt; and also for the examination of Mr. Roy as to the authority (whether of the bankrupt or not) upon which he wrote a letter, dated April 11th, to a Major Campbell, on the subject of the liability of the Duke of Argyll in relation to his connexion with the affairs of the said Association, and therefore, at least by implication, with the estate and affairs of the bankrupt.

Mr. Laurence attended as solicitor for Mr. Leslie (the petitioning creditor); Mr. Cockburn, Q. C., and Mr. E. James, for the Duke of Argyll and Sir James Cockburn; and Mr. Tyrrell as solicitor for Mr. Roy.

Mr. Roy, examined by Mr. James—He was a Writer to the Signet in Edinburgh, and was acquainted with Mr. Leslie. He was in London in April last; and the first time he communicated with Mr. Leslie as to the affairs of the British-American Association, was either in October or November last. The letter dated 11th April, read at the last meeting, was "part" of a letter which he wrote to Major Campbell confidentially, as well as another part on business. The letter was written in his own lodgings, Great Ryder Street, St. James'; and he would positively swear that it was not in the slightest degree influenced by Mr. Leslie. Had previously to this dined with Mr. Leslie, at his house at Wandsworth, with several other parties, two or three of whom were connected with the Association. Sir Richard Broun, Dr. Rolph, and others, were

amongst the company; but Mr. Duncan Campbell was not there. Mr. Leslie's health was proposed at that dinner for his "forbearance" in relation to the affairs of the Association. Nothing was said directly about the Duke of Argyll, but in the course of the conversation something was said of the difficulties of the Association, in consequence of his Grace not having paid up his shares.

Mr. Leslie was here ordered to withdraw.

Mr. James—When you wrote that letter, did you not think it was probable that it would reach the ear of the Duke of Argyll in some way or other? Will you swear that?—No. I will not; I left it entirely with Major Campbell, who might communicate it or not to his Grace. It was quite optional to Major Campbell. Mr. Leslie showed me the copy of a letter, and when I found it contained a threat of arresting the Duke's rents, I said it was oppressive and harsh. He felt distressed, said he had got into a scrape; and, at his request, I wrote out the scroll of an ample apology.

Did he write it? He said he would, to the Duke's solicitor.

You are largely engaged in emigration in Scotland? I am, from my official situation, and was very glad to find the Duke of Argyll also favoured emigration.

Mr. Leslie, examined by Mr. James—I said I was induced to strike the docket by Dr. Rolph, who recommended Mr. Laurence to me. We had a meeting on the 5th or 6th April, at which Mr. Laurence was present, when the fiat was discussed.

What passed upon that occasion? Mr. Laurence objected to the disclosure of confidential communications between the client and his solicitor.

Mr. Cockburn, Q. C., and Mr. James, here contended at considerable length that the Court had no power to act upon the mere suggestion of a solicitor, however respectable, that the proposed examination would tend to benefit the bankrupt's estate.

Mr. Laurence, *contra*, contended, at great length, that the evidence once begun could not be now curtailed.

Mr. Commissioner Holroyd said, it appeared to him that in this case sufficient reasons had been stated in the first instance,

to issue summonses for the Duke of Argyll and Sir James Cockburn; and he had proceeded, as he did in all other cases, to ascertain if these grounds were the proper ones on which to act. In this case, it does not appear that there are any assets; but were there any to be distributed, and if the question were to arise as to contributions, as between the several partners, then the examination might be let in with a view to relieve the bankrupt's estate, and possibly thereby to assist other parties, which they would then be legitimately entitled to. But the present time did not appear to him to be the proper time to enter into the proposed examination. Mr. Laurence, however, if he wished, might have the opinion of another Court.

Mr. Laurence said he was extremely anxious for the fullest inquiry, and hoped his Honour would adjourn the further hearing either to the Court of Review or a Subdivision Court for that purpose.

Mr. Commissioner Holroyd—I have already given my opinion that this examination cannot be proceeded with; therefore I cannot adjourn it, but will take time to consider the point.

(Monday, June 12, 1843.)

COURT OF BANKRUPTCY, JUNE 10.

In Re ROLPH.

This day was fixed for the bankrupt's final examination.

Sir James Hamilton put in the following claim:—

“Dr. Rolph to Sir James Hamilton Hay, for salary due to me by the British-American Association, from the 1st of June 1841, to the 1st of June 1843, being two years, at £450 per annum—£900.”

Mr. Laurence (for the fiat), said that Sir James Hamilton Hay (by the prospectus) was a commissioner, and was to have been Superintendent of Emigration in Canada. I have said to him that he must go against other parties; for if there be no joint estate, it cannot be said that there are not solvent

partners. I believe, however, that Sir James does not seek to press his claim.

A creditor named Payne said he had a claim against the Association to some amount, and that he wished to put some questions to Dr. Rolph, relative to the situation of the cargo of the ship Barbadoes.

Mr. Laurence said that the gentleman had not yet proved, but still he would not object on that account to his putting any questions as to the bankrupt.

After a few minutes' conversation with the creditor, Mr. L. proceeded to say that he (Dr. Rolph) would give every information as to the cargo of the vessel (the Barbadoes); and with this assurance the creditor expressed himself satisfied.

After the usual interrogatories had been put to and answered by the bankrupt, and having signed his examination at the last hearing, he was declared to have passed his final examination.

COURT OF COMMON PLEAS, DECEMBER 4, 1843.

WOODS v. THE DUKE OF ARGYLL AND ANOTHER.

THIS action was brought to recover from the defendants, the Duke of Argyll and Major-General Sir James Cockburn, the sum of £37:5s. for work and labour performed for the defendants, in copying certain maps, and making a journey to Gravesend. The Duke of Argyll, it appeared, had been put down by the promoters of the scheme as the President of the British-American Association for Emigration and Colonization, which seemed to have had its origin in an association founded for the purpose of securing to the Nova Scotia Baronets certain estates in Nova Scotia. The proceedings of the British-American Association, the fate of the emigrants who had taken berths in the ship Barbadoes, and the bankruptcy of Dr. Rolph, one of the principal promoters of the Association, have been made so familiar to the public through the instrumentality of the police and bankruptcy reports, that it will not be necessary to do more than advert to the evidence by

which it was sought to fix the defendants with liability for the acts of the Association. It appeared that the order to copy the maps, &c. was given by the Secretary of the Association in August or September 1842, and that the first meeting which the Duke of Argyll and Sir James Cockburn attended, was held on the 22d of April in the same year. They attended another meeting on the 29th of April, and another on the 8th of June, and after that time there was no evidence to show that they ever interfered in any way, directly or indirectly, with the proceedings of the society, or attended any of their meetings. It appeared that a prospectus was published, in which the Duke of Argyll figured as President, and a number of noblemen and gentlemen as Vice-Presidents, besides a number of Baronets, among whom was Sir James Cockburn, who formed the "Consulting Council;" but it seemed from the same prospectus, that the whole management of the affair was left in the hands of six "Commissioners," and that the functions of the President, Vice-Presidents, and Consulting Council, were exclusively confined to the protection of the interests of the shareholders. It was arranged by the very constitution of the Association, that no Peer or Baronet who became a Vice-President should be liable as such to the expenses of the Association; and it appeared by one of the resolutions which was adopted on the 8th of June, that it was determined that nothing should be done by the Association till £50,000 had been subscribed for. Only £7000 was subscribed for up to December 1842. There were several minor features in the case, but the above were its leading characteristics.

Lord Chief-Justice Tindal summed up, and the jury, who retired at ten minutes to six, returned into Court in about twenty-five minutes, with a verdict for the defendants.

COURT OF COMMON PLEAS, JANUARY 16, 1844.

WOOD ? THE DUKE OF ARGYLL AND ANOTHER.

MR. SERGEANT BYLES said that this was an action tried on the 5th of last month before Chief-Justice Tindal, and was brought

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to recover the sum of £37 for maps and plans supplied by the plaintiff to the British and North-American Land Association, of which it was contended the defendants, the Duke of Argyll and Sir James Cockburn, were directors and members. The jury at the trial returned a verdict for the defendants, and the learned Sergeant moved to-day for a rule calling on them to show cause why that verdict in their favour should not be set aside, and a new trial had, on the ground of the decision being contrary to the evidence adduced. He contended that the defendants had made themselves liable by their proceedings to the preliminary Association, the object of which was to start the project of the North-American Land Association itself; and that they held themselves out to the world as supporting that society in such a way as to make themselves responsible in such an action as the present. On these grounds he applied for this rule.

The Court decided that the rule must be refused, as their Lordships thought that at the trial the fullest inquiry had been made into all the circumstances of the case. The case had been left to the jury on three points, viz. whether there was a direct contract between the parties; whether there was any liability on the ground of partnership; and whether the defendants had held themselves out to the plaintiff so as to be responsible for the acts of the executive committee. The jury had thereupon found in the negative, and in favour of the defendants on all points, and the Court therefore saw no ground whatever for disturbing the verdict that had been given after mature consideration. The evidence showed no contemplation by the defendants to form a company; but that they had cautiously guarded themselves from responsibility, until £50,000 had been really and *bona fide* subscribed by purchase of shares in the proposed Association. That never had been done, and the Court therefore thought the society was never in fact formed, so as to render the defendants liable to any such claim as that made in this action. The rule was accordingly refused.

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Leading Article from "The Globe" of Feb. 23, 1846.

THE history of actions for libel, brought by individuals against journals of established reputation, would form an interesting chapter in the annals of civil jurisprudence.

After a somewhat protracted career in journalism, during which we have been peculiarly exempt from such annoying and expensive visitations, the *Globe* has been called upon to contribute its quota to the materials for such a history.

In another part of our columns will be found the report of a trial which took place in the Court of Common Pleas, Guildhall, before Chief-Justice Tindal, on Friday and Saturday last, in which the proprietors of this journal, through their publisher, were called upon to answer the complaint of a "Sir RICHARD BROWN, Knt.," for an alleged libel upon his character, and by which he sought to recover compensation in damages for the injuries thus inflicted upon him.

On the 4th of July 1844, an article appeared in our columns, containing some strictures on the British-American Colonization and Emigration Association, the history of which is still fresh in the public recollection. Of that fraudulent and extensively mischievous scheme, Sir Richard Brown was the projector, and one of the three self-constituted "Commissioners" and Managers. We designated that project by terms expressive of its true character; and its Commissioners and Managers by appellations which were but descriptive of the frauds they had practised on the credulous and unwary by its means. For that article we were proceeded against by Sir R. Brown. We replied to the declaration in the action by a justification of every count. At one time it was doubtful whether the plaintiff—like others of his class—had not abandoned his cause. Not being able to discover the residence of the worthy knight, our attorney obtained a judge's order, requiring the plaintiff's attorney to furnish the defendant with the present residence of the plaintiff. That order had the effect of hanging up the cause for several months. It was not convenient—perhaps it was not possible—for the plaintiff's attorney to

obey the order. After the lapse of several months, a "local habitation"—he already had "a name"—was assigned to the plaintiff. He was the occupant of a humble lodging in one of the obscure streets in Brompton, where, however, he was never visible to inquirers, being invariably "out" whenever application was made to obtain an interview with him.

At length, as we have said, the action was brought to trial on Friday and Saturday last. The plaintiff's first witness was a Mr., *alias* Doctor, Thomas Rolfe, one of the self-constituted "Commissioners" and Managers of the bubble Association. That witness, in his searching cross-examination by Sir Thomas Wilde, completely confirmed every statement we had made in the article set forth as a libel on Sir Richard Broun, as one of the "commissioners" and managers of the Association. Fabricated minutes; interpolated resolutions—documents concocted and issued for the purposes of deception—were, in succession, placed in the witness's hand, who was compelled to admit that they were fabrications. The "constitution" of the Association was at length placed before him. That document professed to define the powers of the "commissioners" and "executive council;" and, as it originally stood, conferred no authority for issuing loan-notes. It simply authorized the "commissioners" and "executive council" to raise money by the disposal of shares. This was inconvenient, for shares were not in demand; and Sir Richard Broun and his *confreres* were desperately hard-up for funds. At a meeting at which his Grace the Duke of Argyll and Sir James Cockburn were present, the plaintiff and his co-commissioners being also there, the latter ventured to propose that money be raised on debentures. The Duke of Argyll and Sir James Cockburn, up to this time, seem to have been blinded to the real character of the Association and its managers. This proposal, however, appears to have excited their suspicions. They protested, as they well might, against any such proceeding; alleging that, as the Association had not a foot of land, there was no security for the payment of the debentures, if issued. His Grace, in conjunction with Sir James Cockburn, also declared that they would be no parties to any further operations of the Association until the sum of £50,000 was subscribed for shares.

This determination of the Duke and Sir James Cockburn was a poser to the plaintiff and his brother commissioners. They had made every preparation to obtain a concurrence on the part of those who interposed this formidable and apparently fatal objection to what they intended should open up a source whence funds should flow to their hands. We have said that the deed of constitution, as originally "settled," signed, and sealed, contained no provision for raising money on loan-notes. This was a trifling defect, easily supplied by such ingenious functionaries as those who managed the affairs of the British-American Colonization and Emigration Association. These worthies, the plaintiff and his witness Rolfe — being either concoctors of or parties to the fraud and forgery — actually removed, or caused to be removed, a sheet from the deed of constitution, as it originally stood, and interpolated another sheet, on which, by means of smaller and more closely-compressed writing, they introduced the clause empowering them to raise money on loan-notes. The interpolated sheet was written by a clerk who did not enter the service of these "commissioners" until several months after the deed, as it was originally settled, was executed.

The production of the fabricated deed, and the extorted admission of the witness to the facts, as we have stated them, was decisive of the plaintiff's case. Mr. Sergeant Talfourd and Mr. Sergeant Channell, his counsel, declined to sanction, by their further appearance in the cause, conduct so flagrantly fraudulent. They communicated their decision to Sir Thomas Wilde, who was still pursuing his destructive cross-examination of the plaintiff's witness, and subsequently to the Court. As it was admitted that one of the defendant's pleas on the record — that which affirmed the non-seaworthiness of the *Barbadoes* — could not be sustained; and on that plea, therefore, if with only a farthing damages, a verdict must have been taken for the plaintiff; it was agreed to withdraw a juror.

This arrangement, so far as the costs are concerned, is precisely the same as though the plaintiff had obtained a verdict for the smallest coin — each party bears his own costs. We need hardly remark that this result is substantially the same to the proprietors of this journal as though they had obtained

a verdict from the jury. They were well aware, throughout the proceedings, that they could never have obtained a penny from the plaintiff of the heavy costs they must necessarily incur in defending the action.

One of the amusing incidents in the drama of villany, as proved by the admissions of the witness Rolfe, and confirmed by the minutes of the proceedings of the "commissioners," was the coolness with which these worthies voted large salaries to each other. £1000 per annum to Andrews, "commissioner, registrar, and solicitor;" £1000 per annum to Sir Richard Broun, the plaintiff, for his eminent services; £500 per annum to the witness Rolfe, as "commissioner," &c. &c. The amounts were paid in loan-notes; the signing parties mutually releasing each other from personal liability. These loan-notes, worthless as waste paper itself, were to be negotiated, if possible. In some instances they were used as instruments for raising the wind. Rolfe, when pressed as to the amount which the debentures and loan-notes actually issued by the "commissioners" represented, would not say whether the former was £10,000 or £100,000. Of the loan-notes it was admitted that £17,000 had passed through his hands alone. It is but fair to infer that the other "commissioners" were as liberally dealt with.

We confess to a feeling akin to disappointment at the sudden—we had almost said premature—termination of the trial. We could have wished that the proceedings of the plaintiff and his associates had been more fully exposed, as they would have been, had the cause proceeded. There were letters in Court, written by these worthies to each other at the time when they held out to the public that they were proprietors of an illimitable extent of territorial possession, and had thousands of pounds sterling under their control, earnestly pressing for a remittance of ten, or even five, pounds, to meet their extreme necessities. A letter would have been put in, written by the plaintiff, Sir Richard Broun, to the secretary of the Association, suggesting the expediency of dropping the "*Sir*," and substituting "*Mr.*;" and recommending that, in writing his name in future, the letters forming "*Sir*" should be so written as that they might appear to express either appellative.

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Passing over multitudes of fabricated and interpolated minutes and resolutions of a similar character, and framed for equally fraudulent purposes with those which had already been recognised and admitted by the plaintiff's witness, we will only adduce one. Certain resolutions and other proceedings of the commissioners, which were set forth to have been passed and recorded in April, were not entered until the September following. One of the last resolutions in the commissioners' minute-book is one declaring that the plaintiff, Sir Richard Broun, had "forfeited the confidence of his brother commissioners, and was no longer worthy of a seat at the board;" seeing he had seized upon, and secretly removed from the premises of the Association, almost everything moveable, and appropriated the proceeds to his own use. Whether they would not have been beforehand with him, and anticipated him in the spoliation, may be fairly doubted. However, the fact is upon record, and would have been brought out, but for the merciful abandonment of the case by the plaintiff's counsel.

We had in Court a host of witnesses, including tradesmen who had been robbed, and some of them actually ruined, by the loss of the goods and money obtained from them by the false pretences of the plaintiff and his confederates; others who would have established that which constituted the essence of the alleged libel, that the Duke of Argyll and the other noblemen and gentlemen whose names were paraded before the public to give apparent stability to the deception, were lured into lending their countenance to the objects of the Association by pretences the most false, and by the production of documents and letters framed and fabricated for the purpose of carrying on the delusion. The endeavour to unite the objects of the Nova Scotia Baronets, who were seeking from the Crown a recognition of their claims, with the pretended objects of the Association, was a part of the scheme. This enabled the plaintiff to parade a number of really respectable names before the public eye,—as though these personages were identified with the Association. When the Nova Scotia Baronets insisted on their objects being severed, and henceforth kept distinct from the objects of the Association, a heavy blow and great discouragement were inflicted on the scheme of the plaintiff and his confederates.

We have extended this article to a length only justified by the circumstances in which we have been placed. The evidence of the plaintiff's own witness proves that we did not injure the fame or feelings of an *honest* man. We have vindicated our own integrity; have exposed the villanies of a set of impudent knaves; and have thus shown that the protection of the public against such characters is, as it ought to be, one of the principal objects in the conduct of this journal. By inserting a plausible statement sent us by Sir R. Broun three or four days after the appearance of the article on which he founded his action, and which was an attempt to revive the defunct Association, we might have propitiated his mighty wrath, and even obtained his distinguished patronage. A private note from the illustrious knight, sent with his statement, proposed that "if the article were inserted, he would take 200 copies of the paper in which it appeared, for circulation among his friends in Scotland—provided *six months' credit* were given him for the amount" (£4:3:4.)!

It would have been surprising if, during the railway mania of the last year, the plaintiff were not found among the projectors or directors of one or more of the numerous bubbles which were formed to induce those who had more money than discretion to intrust their spare cash to the keeping of persons who had more ingenuity than money. Accordingly, we find "Sir Richard Broun, Bart." with the prefix of "*The Hon.*" to his other equally valid title, at the head of a list of names who figure as the Directors of a Paris and Dieppe Railway project. In how many more railway schemes the plaintiff had a share, we know not. It must be admitted, that with such recommendations as he could obtain from the British-American Colonization and Emigration Association, his title and qualifications for business would be found invaluable, and ought to be secured by those capable of appreciating the worth of distinguished rank, high character, and vast experience in business of a certain class—at any price.

COURT OF COMMON PLEAS,

FEBRUARY 20.

(*London Sitings after Term, before Lord Chief-Justice
Tindal and a Special Jury.*)

[We take the following ample and accurate report from
the *Times*.]

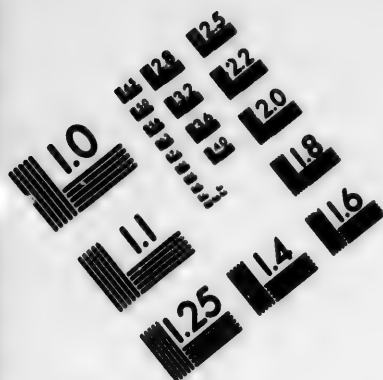
BROUN, KNIGHT, v. EVE.

Mr. Sergeant Talfourd, Mr. Sergeant Channell, and Mr. Hosack, appeared for the plaintiff; and Sir Thomas Wilde, Mr. Humfrey, and Mr. Phinn, for the defendant.

The plaintiff in this case is Sir Richard Broun, who, at the period when the action was commenced, as the eldest son of a Scotch Baronet, assumed the title of Knight, and who, by descent, is now a Baronet; and the defendant is the publisher of the *Globe* newspaper. The action was brought to recover damages for an alleged libel published by the defendant against a certain company called the British-American Emigration and Colonization Association, of which the plaintiff was one of the chief promoters and directors. The libel complained of was published in the *Globe* on the 4th of July 1844, and alleged that the said association was a "jobbing scheme," got up by "penniless commissioners and directors," by whom the Duke of Argyll had "allowed himself to be duped," and by his "becoming the patron and president of the bubble" the public had been duped, and emigrants had been induced to lodge their money with "the commissioners," and embark on board "the good ship Barbadoes" for Prince Edward's Island; that the vessel was compelled to put back, not being seaworthy, and the whole scheme "an enormous humbug." The alleged libel concluded with recommending that the names of all shareholders in such companies should henceforth be registered under the provisions of the Joint Stock Companies bill, then before the House of Commons, in order that the public might be protected "against sharpers of both high and low degree."

To the declaration setting forth the libel at length *in hæc verba*, the defendant pleaded a number of pleas:—1. Not





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guilty. 2. That no such company had been associated together under the name of the British-American Association. 3. That the plaintiff was not one of the projectors, or a member, director, or manager of the association. 4. That the defendant did not use the word "bubble" for the purpose of expressing an unlawful joint-stock company. 5. That the defendant did not use the word "sharpers" for the purpose of expressing persons addicted to fraudulent practices. 6. That the defendant did not use the word "humbug" for the purpose of expressing delusion or deception. 7. That the ship *Barbadoes* was not a good and seaworthy vessel, but on the contrary; and was by her default compelled to put back. 8. Except as to part of the declaration, the defendant pleaded a justification; and 9. As to the part excepted, the defendant pleaded a justification. On these pleas issue was joined.

Mr. Sergeant Talfourd, in opening the case to the jury, said the plaintiff, Sir Richard Broun, was a gentleman of ancient Scottish family, who, since the commencement of this action, had succeeded to his father's Baronetcy, which was one of those created by James II. The present action was nominally brought against the printer of the *Globe* newspaper, for publishing a libel in that paper on the 4th of July 1844. The nature of that article, which did not in terms name the plaintiff, was an attack on a society which had its origin in 1841, and which came to an end in 1842, and which was a scheme for promoting emigration from this country—especially from the Western Islands of Scotland—to Canada, of which society Sir Richard Broun became one of the projectors and a most active promoter, and became responsible for its general scheme, objects, design, and views. The nature of the charge which appeared in the *Globe* newspaper would be read to them. It did not state that this was a scheme originating in any rashness of purpose, but that it was from first to last a wicked fraud, devised not for the purpose of promoting emigration from this country to Canada, but with the wicked design of obtaining for the promoters the moneys of those persons who might be induced to take shares in that association, and of appropriating those moneys to their own use. That was the nature of the charge, and it was one which the plaintiff had

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felt it due to his character to contradict; and that was the charge which the defendant had to prove, and on which the jury had to determine. Before he introduced the article of which the plaintiff complained, it seemed to him better that he should give to them a short outline of the history of this Association. In 1841 this Association took the name of the British-American Association, and it had its origin in the lamentable state of destitution which, in 1839 and 1840, befel the population of the Western Islands of Scotland. They were aware that on the western coast of Scotland there were a number of barren islands inhabited by a scanty population, stretching from the mouth of the Clyde along the coast of Argyleshire, Inverness-shire, and Ross-shire. Their inhabitants were accustomed to food of the poorest description, and to derive their support from the scantiest resources; and when any famine came, they were driven to the most dreadful distress. The same observation applied to the inhabitants of the Hebrides Islands spread out in the western seas.

His Lordship here intimated that, from an examination of the record, this appeared to him to be one of those cases in which honestly and justly something might be said to satisfy the plaintiff.

Sir T. Wilde—I don't know what will satisfy him, my Lord.

Mr. Sergeant Talfourd continued—He certainly should have been most glad to adopt the kind suggestion of the Lord Chief Justice, and to satisfy the action; but the impression the defendant had received was such as precluded such an arrangement. In 1839 the distress in these islands had become the object of private charity. Amongst others similarly situated with the plaintiff, who was descended from a Baronet created in the time of James II. (who, when he wanted money, sold those titles, together with large grants of land in Nova Scotia, under the plea of colonizing them), the plaintiff was anxious to forward measures for obtaining a renewal of the grants of those lands to which this class of Baronets believed themselves to be entitled under charter from the Crown. Whether legal or not, these were rights which the plaintiff and others honestly claimed. At this period the plaintiff was

secretary to the Society of Baronets, who naturally took a sort of hereditary interest in these possessions; and Sir Richard Broun naturally also took an interest in the practical question of emigration from the most densely populated of the Western Islands, for the purpose of planting new colonies in the Canadian possessions, to which he and others believed themselves entitled. In 1840 a great meeting was held, under the presidency of the Duke of Argyll, at the Hopetoun Rooms, in Edinburgh, for the purpose of ascertaining what relief could be given to these poor islanders by emigration. That meeting was attended by a gentleman intimately connected with Canadian affairs, and who held a high office under successive Canadian governments. That gentleman, of the name of Rolfe, had been educated for the medical profession. He had practised in that profession in England, but fell into misfortunes, and went (as many men of enterprise and talent had done who did not find a fair field in this country) to Canada; and there he was appointed to be the government emigration agent in that colony. At that meeting Mr. Rolfe expatiated on the advantages which might be derived from an extensive and systematic scheme of colonization from the western shores of Scotland. He became acquainted there with the plaintiff, and the plaintiff was induced to unite with him in the designs which he was desirous of promoting. Mr. Rolfe returned shortly after to Canada, and directed attention to the cultivation of large tracts of land in that country. He shortly after returned again to this country, the accredited agent of the Canadian government and of Canadian proprietors of millions of acres, authorized to treat for the sale, upon a certain commission to himself, of large portions of territory in that country. Mr. Rolfe had received the thanks of the Canadian government, and various presents of from £100 to £500 for his zeal in the cause of emigration, and held an appointment of £500 a-year from that government. With great knowledge of the subject, and enthusiastic zeal for the promotion of its objects, he associated himself with the plaintiff and other persons of much higher rank, in 1841; and in 1842 considerable progress was made in the prosecution of their design of colonizing lands in Canada by means of this Association. Meetings were held,

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which were attended by the late Marquis of Downshire, the Marquis of Bute, and other persons; and in 1841 this Association was formed, under the title of "The Scottish and British American Association." His Grace the Duke of Argyll, after a communication with Mr. Rolfe, became President, and the Marquis of Huntly, Lord Forbes, and others, became Vice-presidents, and a "consulting council" was formed of honourable persons. The plaintiff and Mr. Rolfe were commissioned to visit the North of Scotland, and took the title of Commissioners. In 1842 Mr. Rolfe returned from Canada, accompanied by Sir Allan M'Nab, now the Speaker of the Canadian Legislature, their object being chiefly to forward this scheme of emigration. On the 4th of April there was a meeting of the Association, and various provisions were made with respect to the purchase of large properties which Mr. Rolfe was commissioned to dispose of. On April 22, 1842, the Duke of Argyll presided over the "consulting council," and that meeting was adjourned to the 29th of April, and on that day the Marquis of Downshire presided, and measures were adopted which led to the plaintiff, Sir Allan M'Nab, and Mr. Rolfe, being directed to proceed to Scotland and advocate the objects of the Association there; and, in consequence, two great meetings were held in the following month of May, in Edinburgh and Glasgow, the Lord Provosts presiding in each of those places. Mr. Rolfe addressed the meetings, and explained the scheme, which was embraced with enthusiasm by many gentlemen there; among them by Mr. Sheriff Alison, the historian of the French Revolution. Upon the return of these parties to London, a meeting was held, which was presided over by the Duke of Argyll, and it was then proposed that a share list should be opened, and that capital should be raised and employed for the purpose of paying the first instalments for the purchase of the lands they were in treaty for. One of these treaties was for the purchase of many thousand acres of land from a person named Cunard, in Prince Edward's Island. It was then discussed whether the Society should issue shares or debentures, and it was determined to issue shares. The share list was headed by the Duke of Argyll, who agreed to take fifty shares, and he was followed by many others, who

agreed to take a certain number of shares; among them by Mr. Rolfe. The deposit to be paid for the shares was £5 per share. He believed that the only persons who ever paid any deposit at all on these shares was the plaintiff (who paid £250 into Glynn's bank), Mr. Rolfe, and Sir W. Ogilvie, who each paid a similar sum, making £750 altogether, which was all the money that was ever obtained from anybody on the faith of this scheme. The scheme had every appearance of prospering, when Mr. Rolfe was obliged to return to Canada. During his absence, an occurrence happened which ruined the Association. It was not intended that any actual outlay should be made till £50,000 should be subscribed and in hand. Sir James Cockburn had proposed that that course should be adopted, and it was adopted. But it so happened that there seemed to offer to "the commissioners" a favourable opportunity to send out a pioneer band, to be located on that land which the Society had agreed to purchase, and who, going there as approved workmen, should facilitate the views of the Association. This was a small episode—a little excrescence in the proceedings, which the "commissioners" ought not to have taken without the entire consent of the Society. It was stated to them, that a gentleman of the name of Haldon was willing to engage a band of persons of from 50 to 80 selected workmen, who might go out without risk to themselves, and prepare the way for those who might follow not so skilled. Mr. Haldon proposed to charter a vessel, and to make his contract with those persons, and they were to go out at a certain price of purchase-money to be paid to him, and were to be his servants. When they arrived they were to have allotted to them, on the land which the association had agreed to purchase, an acre in the first instance to clear, at a rent of 1s. an acre, and to have the option of purchasing it in four years at £1, and then to have the option of obtaining three acres more at a rent of 1s. an acre, or £1 for the fee-simple; and the Association was not to be called on to expend any money on that contract. Mr. Duncan Campbell undertook to charter a vessel called "the Barbadoes" to carry out these persons. He was to be paid £8 for each adult passenger, and £4 for each child; and he was to find them with everything proper

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for the voyage. He was also to take out the goods of the Association at 4s. a ton, and consented to receive payment in debentures, and not in cash, to which debentures the shareholders were liable, no charter having been obtained. "This, therefore, became the speculation of Mr. Campbell, so far as his vessel was concerned, and of Mr. Haldon, so far as the emigration was concerned, and had nothing to do with the Association. A number of persons entered into bargains with Mr. Haldon; and what those bargains might be, he was not prepared to state by legal evidence. With the exception of one man named Taylor, who paid £50 for the passage of himself and family, not one of those persons paid a single shilling to Mr. Haldon." These persons went on board the vessel, which was to lie a month on demurrage. Some one wrote to Lord Stanley, calling his attention to this vessel. Whether this was some rival company, or who it might be, he knew not, further than this, that the attention of Government was called to the vessel, and an inquiry took place, which caused considerable delay, on the allegations that the vessel was not seaworthy, and was not properly provisioned. An officer made a thorough inquiry, and it was found that the vessel had been completely repaired and was entered at Lloyd's in the second class; and there was no pretence for saying that the vessel was not in every respect seaworthy and properly stored with provisions, and the result of the inquiry was perfectly satisfactory. While the vessel was lying at Gravesend, some of the passengers who had agreed to go, but then declined, made complaints at the Mansion-house, before the Lord Mayor, against Mr. Haldon. They preferred some claim against him which that gentleman thought it better to compromise with them, and he paid them some sums of money for the purpose of preventing their claims, taking their receipts. But that had occurred which was fatal to the Association; for the then Lord Mayor, acting, as he (Mr. Sergeant Talfourd) thought, extrajudicially, expressed opinions about this Association which were fatal to it. It sometimes happened that Magistrates thought fit to express opinions, and to let them find their way through the great channels of communication to the world, which were injurious to the character of individuals; and

though he would not borrow the very striking and strong language with which a former Lord Chancellor (Lord Brougham) had reprobated these extrajudicial inquiries of Magistrates, still as absolute wisdom did not always preside over the city and inspire magistrates, he thought it would be better if they would confine themselves to the simple discharge of their duties, especially where there was not a legal education to guide them. Without any reference to the character of Sir John Pirie, he thought it would have been better had he confined himself simply to the line of his duty, instead of taking the steps he did. He wrote to the Duke of Argyll on the subject, and the effect of that letter was, that that nobleman thought it right instantly to withdraw his name from this Association. Many others immediately took the alarm on no other grounds, and the consequence was the paralyzation and utter ruin of the prospects of the Association. On the 1st of November the vessel proceeded on its voyage. That voyage was most unfortunate, for having started too late in the season in consequence of these delays, the vessel met with violent adverse winds, and the result was that she was compelled to put back to the coast of Cork. There these emigrants found themselves landed where they did not intend to land, and they became the subject of great charity. The succeeding Lord Mayor took an interest in their case, and the result of this calamity was fatal to the Association. When Mr. Rolfe returned from Canada, he found that the affairs of the Association were in such a condition that even the enthusiasm which he had endeavoured to breathe into it could not revive it; and the Association, instead of issuing debentures or shares, never obtained a single shilling more than the money he had stated. During the time that the Association existed, it was assailed by the press, and he did not complain of that. So long as any project affected large public interests, he did not complain of the press exercising vigilance respecting it. The substantial debts of the Association were small, and, of course, "the commissioners" were liable for them, and its creditors very rightly resorted to the nobleman who had presided over the Association and had taken shares in it. However, with this he had nothing to do, except that it explained the article of which the

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plaintiff complained. An action was brought against the Duke of Argyll for the price of some maps furnished to the Association, and the jury found that there was not sufficient evidence to fix him with the liability of payment, and the action did not succeed. In another Court, however, a person of the name of Lake brought another action, which was tried before Lord Denman, for the cost of printing, and the evidence then given did satisfy the jury that his Grace the Duke of Argyll had become responsible for the debt. With this they would have thought the public journals had little concern, and would scarcely have imagined that whether the Duke of Argyll, and Sir Richard Broun and Sir Allan McNab and Mr. Rolfe were all liable or not, would have provoked a leading article in a journal in which space was so precious as happily it was in this journal. A leading article, however, was written, and repeated all the history of the Association, and in such language as prohibited the plaintiff from thinking that he could hold his course with honour unless he challenged the newspaper to retract or to prove its statements. After this long preface he would proceed to read the article of which the plaintiff complained. It was in the *Globe* newspaper of the 4th of July 1844. The learned counsel then proceeded to read the following article, which was the libel complained of:—

“ His Grace the Duke of Argyll, and the British-American Emigration and Colonization Association, will be long associated in public recollection. The Duke and the emigration jobbing scheme will go down to posterity hand-in-hand. The scheme was concocted by others. The Nova Scotia Barons, who lent their titles to its prospectus for a ‘con-si-de-ra-ti-on,’ to invest it with dignity in the eyes of the ignorant, and the penniless commissioners and directors of the nefarious scheme, have figured in various forms and in different courts of law, in connection with the Association and the liabilities it incurred. The Duke of Argyll was at its head. We do not impute any fraud to his Grace of Argyll—God forbid! The Duke merely allowed himself to be duped into lending his name and title to the scheme, from an idea of the benefits which would result from shipping off, from certain estates he possessed, a number of superfluous bodies, to the unknown regions which were to be colonized by the British-American Association. His Grace of Argyll was quite a godsend to the

schemers. To have a Duke as patron and president of their bubble was the very thing they wanted. No one would be so presumptuous as to doubt the validity or question the veracity of a project of which the Duke of Argyll was the head, and in the management of which his Grace took an active part. The bait was successful—at least up to a certain point. Tradesmen sent in stores for 'the good ship Barbadoes.' Emigrants lodged their money with the 'commissioners,' for the purchase of land, and for their conveyance, with their families, to the glorious island which the commissioners and directors stated they had the right to dispose of, and which they, with the most suspicious liberality, were anxious to sell, dirt cheap, to whoever would pay earnest money, and go out to take possession of the estates they had thus cheaply obtained. How the whole bubble burst—how the vessel was compelled to put back through inability to go forward—how the impudent knavery of the directors was exposed, and their dishonesty and cruelty to the wretched people they had inveigled on board their ship, were demonstrated and denounced;—these, and much more, were shown up at the time by the public journals, and need not now to be repeated.

"We then remarked, and in more than one article on the subject proved, that, though not cognizant of the frauds which other parties—bankrupts in character no less than in property—contemplated by means of the Association, his Grace of Argyll was manifestly, legally, and morally liable to the tradesmen and others who had been induced to supply their goods, or to entrust their money to the managers, on the credit of his name, and by the fact of the open interest he took in the project. We advised the Duke, for his own sake—from regard to his personal reputation, and for the sake of the Peerage of which he is a distinguished member—to do that voluntarily which the law would eventually compel him to do, if appealed to by the sufferers. The penalty might be high; but it was incurred through his own neglect. A due consideration of his position, a very little inquiry into the characters of the projectors, and into the project he was asked to patronize, and thus commend to public confidence, would have sufficed to open his eyes to the folly and danger of placing himself at the head of such an enormous humbug. His Grace committed himself to the fortunes of the undertaking, and had no right to complain if he—almost the only individual of the fraternity who possessed anything beyond the decent garments in which the managers were compelled to appear in order to carry on the delusion—is called upon to pay the bills of tradesmen for goods supplied to the Association on the cre-

dit of his mission.

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dit of his Grace's name, used with his knowledge and permission.

"The question of the Duke of Argyll's legal liability has been at length established in a court of law. Yesterday, in an action tried before Lord Denman and a special jury, the claim of a tradesman, who sued his Grace for £145, for printing, was affirmed, and a verdict given in favour of the plaintiff. The printing consisted of the prospectuses, in which the Duke's name figured as president; the captivating resolutions passed at meetings of the Association, which were verified by the Duke's signature; and the other appliances and means by which the monstrous delusion was kept afloat. The result of this trial will be a salutary warning to noblemen and other respectable individuals whose names are solicited for purposes which, however flattering in sound and semblance, are void of all the requisite elements to give them stability and success. The question of the Duke of Argyll's legal liability having been established—for the responsibilities it incurred during the period he continued to allow his name to be used by the concern—we presume the other claimants, similarly circumstanced, will have little difficulty in obtaining payment, or security for payment, of their demands. His Grace will surely not compel these unfortunate people to drag him into court to obtain verdicts. One such exhibition as that of yesterday is sufficient to settle the point of liability. A second would be more damaging to the noble Duke's fame than the aggregate of the demands would prove, if paid without further controversy, to his pecuniary resources.

"The Joint-Stock Companies Bill, which is now before the House of Commons, will exercise a very salutary restraint upon such nefarious schemes as that which has brought the Duke of Argyll into his present difficulties. This bill is the result of a Parliamentary inquiry into joint-stock companies, the evidence taken before which exposed the deep-laid knavery in which many such schemes are founded, and led to the suggestions and recommendations for the public protection, in compliance with which this bill was framed. The main objects of the bill are to establish publicity and regularity in the proceedings of joint-stock companies, and to prevent jobbing in scrip. Publicity will defeat the knaves who contrive to support themselves on bubbles. Let the names of shareholders be registered, with the number of the shares they hold, the amount of paid-up capital, and the other particulars which the projectors of bubble-schemes studiously apply themselves to conceal, be published, and the public will be protected against sharpers of both high and low degree. Such speculators on public

gullibility have driven a thriving trade in this disreputable class of traffic. It will be easy to remove the objection taken to the bill in the course of the discussion of last night, that *bona fide* trading companies will be unnecessarily interfered with by its powers. Indeed, it seems to us, that the more openly the affairs of such companies are exhibited to the public, the more firm will be their hold on public confidence."

This was the article of which the plaintiff complained, in which the term "sharpers" was used, as fitly describing the proceedings of the Association. Did the defendant retract or apologize? No. [The learned counsel then described the pleas, an abstract of which is given above, and which it is unnecessary to repeat.] One of the special pleas alleged that in truth and in fact the real objects and designs of the plaintiffs and others, commissioners and directors of this Association, they being in mean and indigent circumstances, were to enrich themselves with the moneys of any persons who might take shares in the company, under the impression that its object was a real and *bona fide* one. The pleas then stated that the projectors induced the Duke of Argyll to take fifty shares, when they were without means or without any chance of obtaining means for purchasing these lands, or acquiring a good title to them, and that the sole object of the plaintiff and others was to enrich themselves by the improper and fraudulent appropriation of sums obtained from persons who imagined the scheme to be a *bona fide* one. He would call Mr. Rolfe before them, and ask them, after his evidence, whether it was fitting to call this scheme a "bubble" and a "fraud;" and should ask them to give fair damages for the injury the plaintiff had received. Whether the scheme was the dream of persons of high rank or of low rank, when an English gentleman or a Scottish gentleman complained of a personal calumny against him as the conductor of a scheme, it was not to the result of the scheme that they must look, but to the motive and feeling and design which promoted it. By that he would stand or fall. If the plaintiff deserved infamy, he should not regret to see him fail; if otherwise, he should look for a verdict at their hands.

William Taton Hall was called, and proved the registration of the defendant as the printer and publisher of the newspaper called the *Globe and Traveller*, on the 4th of July 1844.

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Thomas Rolfe was then called and examined by Mr. Sergeant Talfourd.—He deposed that he was brought up to the medical profession, and in 1833 he went out to Canada, to the western extremity of Lake Ontario. He had previously practised as a medical man in different places in this country, and was unfortunate, and went out to repair his fortunes. He practised his profession there, and turned his attention to agriculture; and in 1837 he received a government medical appointment from Sir F. Head, and afterwards an appointment for the purpose of promoting emigration. In 1839 he visited this country with instructions from Canadian proprietors to restore the tide of emigration, which, in consequence of political disturbances, had stopped altogether. When he came to this country he sought the acquaintance of the plaintiff, then living in Wigmore Street, Cavendish Square. He sought him out because he was secretary to an influential agricultural association. In the summer of 1840 he returned to Canada, and then received an appointment from Lord Sydenham, as agent from the Canadian government for the promotion of emigration to that colony. He then again saw the plaintiff, and made a visit to Edinburgh, and attended a meeting at the Hopetoun Rooms on the 10th of January 1841, the Duke of Argyll presiding. Witness took part at that meeting. There was a great number of noblemen and heritors and chiefs at that meeting. He had not conferred before with the Duke of Argyll as to the scheme of the Association. The object of the meeting was to take measures to alleviate the extreme destitution in the Western Islands; and the witness addressed himself to the advantages to be derived by emigration to Canada, to which he could speak from his personal knowledge. He afterwards dined with his Grace the Duke of Argyll in Edinburgh. He then returned to Canada. In the meantime he had made the subject of emigration his study, and had received a purse of 500 guineas from Montreal; from Toronto 100 guineas, and a public dinner; and also the same from Kingston. He received appointments in Canada for the sale of several properties. In May 1841, he was examined before a committee of the House of Commons on the subject of emigration in connection with the destitution of the Highlands, and his Grace the Duke of Argyll

was also examined. The Association in question was then formed, and the plaintiff himself, Sir Allan M'Nab, Mr. Buckerfield, and others, formed it, the Duke of Argyll being president; its double object being to relieve the distress in the Highlands, and to promote colonization in Canada. He met the plaintiff, as secretary to the Nova Scotia Baronets, at the Thatched-house Tavern, their object being to devise means to revive their claims to the Nova Scotia lands, and it was thought the projected colonization might forward their object. He returned to England in March 1842, and was acting as emigration agent during that time. He was accompanied by Sir Allan M'Nab, the Speaker of the Legislative Assembly of Canada, and the person whose name appeared in the executive council of this Association.

The resolutions of the original meeting, forming the Association, on the 2d of February 1842, were put in, proposing to establish the Association by the subscription of shares, the profits to be divided amongst the proprietors, and holding out lands for the colonization of Highlanders on terms of £1 an acre for the purchase; these lands to be purchased by the Association with the amount of the shares.

Examination continued—He was present at a meeting at No. 29, Bridge Street, Blackfriars, when certain members of the Association were constituted the Consulting Council, on the 22d of April 1842. The Duke of Argyll presided. Sir William Dunbar, Sir James Hay, Sir Allan M'Nab, Sir J. Cockburn, Sir W. Bruce, Mr. Andrews, and Mr. Buckerfield, were there. Mr. Buckerfield acted as secretary. (The minute-book, containing the minutes of the meeting, was put in, and the minutes read.) The Association was first styled "The Scottish and British-American Association," and afterwards "The British-American Association." (It appeared that the printed document circulated and published, and which purported to be a copy of the minutes of the proceedings of the "Court of the Consulting Council" at that meeting, was not an exact copy of the proceedings, but contained the substance of the minutes.) On the 29th of April 1842, there was another meeting of the "Consulting Council," at which the Marquis of Downshire presided, and several baronets were there.

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(The purport of the minutes of these meetings, which were very lengthy, was to show that crime was increasing in Scotland, and also distress, and that unless adequate remedies were found, the most alarming consequences were ultimately to be apprehended. That, for the purpose of extending the influence of this country, and of alleviating the pressure of that distress, it was advisable to promote a well-conducted system of emigration to the Canadian settlements and to Prince Edward's Island.) Mr. Ogden, the Attorney-General for Upper Canada, was present at the meeting. One of the resolutions was, that a part of the executive council should proceed as "commissioners" to Scotland, to induce Scotch proprietors to join the Association; and he proceeded there, and was present at a meeting at Edinburgh, at which he addressed the meeting and advocated the cause of the association. Dr. Alison was present at the meeting. Sir Allan M'Nab and the plaintiff addressed the meeting; also Professor M'Farlan, and some others. The deputation from the British-American Association visited Glasgow and Paisley afterwards, where meetings were held.

At this period the Court adjourned till Saturday.

SATURDAY, FEBRUARY 21.

The examination of the witness was resumed at great length, and the leading facts stated in the opening speech regarding the Association were proved by him. It appeared that a "constitution deed," describing the objects and powers of the Association, had been drawn up and agreed to. This was signed by the "commissioners," and was submitted to the "consulting council," and approved of. This deed was stamped with an engraved seal, but was not otherwise executed except by the "commissioners."

The examination of the witness having continued to nearly one o'clock,

His cross-examination was commenced by Sir T. Wilde.—He had been bankrupt twice, once before he went out to Canada, and since then in consequence of his liabilities. He first went out to Canada as a settler. He took out no capital with him. He was the first who suggested sending out emigrants to Nova Scotia, and he first opened a communication with the

Duke of Argyll on that subject. Sir Richard Broun, the plaintiff, was at that time the honorary secretary of the Royal Agricultural Association of England. The "Commissioners" of the Association first called themselves "commissioners" in March 1841. He did not know then that the attorney of the Association had run away from Newcastle, and had not a shilling. Witness had property to the extent of £1200 sterling in hard cash in England. He knew that Sir R. Broun had property, but did not remember his ever paying any money to anybody. He did not know and did not believe that the plaintiff was ever in prison. On the 4th of February 1841, it was first proposed to purchase land for the purposes of emigration to Canada. It was first proposed to apply part of the capital collected to the prosecution of the claims of the Scottish Baronets, and then to the purposes of colonization. The proposal to join the two objects together was made on the 2d February 1842, Sir Frederick Hamilton in the chair. This proposal was objected to. Sir R. Broun, the plaintiff, proposed to combine these two objects. On the 29th April 1842, Sir James Cockburn strongly objected to this union of objects of the Association. Upon that objection being made, a resolution was come to, not to keep these two objects united. That resolution did not appear on the minutes of the meeting. There was an understanding that nothing should be done by the Association till £50,000 were subscribed. As one of the "commissioners," witness concurred in the propriety of taking measures to sell shares. On the 12th of August 1842, at a meeting of the "commissioners" at which he was present, the "commissioners" agreed among themselves that less deposit should be taken on the shares, and to reduce the amount of capital, "and several alterations were directed to be made;" the minutes not stating what they were. Witness, Sir William Andrews, and the plaintiff, had signed these minutes. In July in that year it was determined to withdraw the shares and to borrow £30,000 on debentures. This resolution on the minutes had a line drawn through it. Before he went to Canada the "commissioners" voted their own salaries. Witness's salary was to be £500 a-year, Sir R. Broun's £1000 (afterwards by his own wish reduced to £500); Mr. Andrews's was to be £1000, and

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he was to be called "Registrar, Commissioner, and Solicitor;" and Mr. Thompson, who was appointed controller of the accounts, was to have a salary of £500 a-year. He did not know what accounts they had to control. He did not receive information from the plaintiff that debentures were issued; but he learned that during his absence in Canada the "commissioners" did issue debentures. He also knew from Broun, the plaintiff, that they had issued what they called "loan-notes." Sir J. Cockburn had objected to the issuing of debentures, and said it was absurd to issue debentures when they had no land on which to charge them. Sir James Cockburn strongly objected to it. Loan-notes of the Association were given to certain members of the company for their salaries. Witness had received the loan-notes, and had signed them for the salaries of the officers. He had learned from Sir Richard Broun that the Association had borrowed £1000 from a Mrs. Borlase, and that securities had been given to her for £1200, and that £750 of this sum was paid in to the plaintiff's bankers. Loan-notes had been given to Mrs. Borlase as a collateral security, and he (witness) had joined in the security. He did not get any part of the £1000 borrowed for himself. There was no authority in the original deed of constitution which had been agreed upon, to issue loan-notes. He was not aware that a sheet had subsequently been introduced into the deed of constitution giving the authority. (The deed was put in, and it was shown that such a sheet had subsequently to its execution been inserted.) The sheet was in the handwriting of Woods, the clerk of the company. When he signed the constitution deed, he did not know that that sheet was in it. He knew that there was no authority given for the issuing of loan-notes before the execution of the deed, and he had no doubt—in fact he knew that the sheet containing that authority was introduced long after the deed was signed. He would swear that he did not know that it was to be introduced before it was introduced. He knew that there was a sheet added to the deed of constitution, as Andrews and the plaintiff had had some conversation with him about it. He supposed it was added to give a sanction to the issuing of the loan-notes. On the 24th of January 1843, £600 in these promissory loan-notes

were paid to Mr. Buckerfield for his salary, he agreeing not to make the "commissioners" personally liable for their payment. Witness did not know who was to be liable. Various sums in these notes, from £500 to £2000, were paid to the plaintiff, to Sir W. Ogilvy, to Sir A. M'Nab, and Mr. Buckerfield, for salaries; to Mr. Andrews £2000, and on account of law expenses £1000. In this manner very likely £17,000 worth of loan-notes were issued. He could not tell what amount of debentures were issued. It was very likely to be £10,000.

At this juncture the learned counsel for the plaintiff, who had been consulting with him, made an intimation to Sir T. Wilde, which stopped the case.

Sir T. Wilde—I believe, my Lord, our labours are terminated; a proposal to withdraw a juror has been accepted.

Mr. Sergeant Talfourd—The executive Commissioners merely thought they were acting for their own regulation without binding other parties. I understand my learned friend to disclaim any part of that statement that the ship was unseaworthy.

Sir T. Wilde—Oh, certainly; the ship was perfectly sound.

The Lord Chief-Justice—That is not the most serious part of the case.

A juror was then withdrawn by consent, and the case terminated.

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